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STATE OF MISSOURI DOMESTIC VIOLENCE TASK FORCE
PRESIDED OVER BY ATTORNEY GENERAL CHRIS KOSTER

HEARING

SEPTEMBER 7, 2010

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<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES</p> <p>2 Attorney General Chris Koster</p> <p>3 Deputy Attorney General Joe Dandurand</p> <p>4 Senator Joan Bray:</p> <p>5 Senator Robin Wright-Jones</p> <p>6 Representative Tishaura Jones</p> <p>7 Representative Chris Kelly</p> <p>8 Representative Margo McNeil</p> <p>9 Representative Stacey Newman</p> <p>10 Representative Jeff Roorda</p> <p>11 Representative Jill Schupp</p> <p>12 Missouri Coalition Against Domestic & Sexual Violence:</p> <p>13 Colleen Coble</p> <p>14 Missouri Office of Prosecution Services: Jason Lamb</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 ATTORNEY GENERAL KOSTER: Good morning,</p> <p>2 everybody. I'd like to thank everybody for being here</p> <p>3 and I appreciate everyone's commitment of better</p> <p>4 addressing discourage (sic) of domestic violence in</p> <p>5 our state.</p> <p>6 For ten years I served as prosecuting</p> <p>7 attorney in Cass County in western Missouri. Anyone</p> <p>8 who has served as a prosecuting attorney for any</p> <p>9 length of time, even a week or just a day, knows the</p> <p>10 devastating impact that domestic violence has on</p> <p>11 individuals, children, families and even communities.</p> <p>12 Many of the cases I dealt with stay with me even now.</p> <p>13 Nearly all involved acute physical violence, several</p> <p>14 ended in homicide.</p> <p>15 When I was running for attorney general, I</p> <p>16 promised Colleen Coble, the executive director of the</p> <p>17 Missouri Coalition Against Domestic Violence, that I</p> <p>18 would bring together entities in our state's system</p> <p>19 for dealing with domestic violence, police, sheriffs</p> <p>20 prosecutors, the courts, victim advocates, probation</p> <p>21 and parole, to take a comprehensive look at our laws</p> <p>22 and practices with an eye towards making our system</p> <p>23 work better.</p> <p>24 It has been 30 years since Missouri set up</p> <p>25 it's brain work for domestic violence laws. Thirty</p>

1 years ago, then Attorney General John Ashcroft held a
2 similar state-wide forum to examine this problem.
3 Well, the general assembly has passed numerous laws
4 relating to domestic violence since that time, and
5 many of them have been very good changes. They've
6 occurred piecemeal.

7 The goal of this series of meetings is,
8 again, to take a comprehensive review of our laws and
9 practices, to identify areas where statutes or local
10 practices fall short of protecting victims and
11 preventing domestic violence. Personally, I think all
12 of us want to learn more and help highlight best
13 practices in the court system and law enforcement that
14 they may be replicated across Missouri.

15 For example, when we get to our next
16 meeting in Columbia on September 20th, we'll focus on
17 the training of law enforcement officers in our state
18 as a critical issue for review. Since we announced
19 the creation of the Domestic Violence Task Force,
20 ideas for the improvements have already started
21 flowing in. Some ideas have arisen that can be
22 addressed with simple legislative fixes.

23 For example, because of the way the law is
24 written in Missouri, domestic violence shelters must
25 register with the Secretary of State, a process that

1 includes providing a physical address to state
2 government. And, yet, most shelters go to substantial
3 length to shield their physical address from public
4 view, say for letting local law enforcement know where
5 the shelter is located.

6 Because of the inconsistency between state
7 laws and local practices, an abuser can find his
8 victim's safe haven using a combination of
9 Google Earth and the government's own website. I
10 think we can fix that.

11 Another problem, and a reason that we look
12 at the issue comprehensively, is there are different
13 definitions of the word domestic violence throughout
14 the state statute. We should work to fix that, too.

15 My hope is that we can identify these
16 issues and far more complex issues as well and provide
17 the general assembly, the courts and local law
18 enforcement with a series of concrete, well-documented
19 recommendations for their consideration by the end of
20 this calendar year.

21 I am grateful to the members of this
22 legislature who are here today. You are critical to
23 the process and I both appreciate and look forward to
24 your comments and ideas on this important issue. We
25 have three meetings currently scheduled. Today's

1 meeting, and then one in Columbia on September 20th,
2 and one in Kansas City on September 27th. If we need
3 more, we will continuous this process. I am committed
4 to investigating and investing as much time and effort
5 as we require. Our goal is to develop a comprehensive
6 report with meaningful and detailed recommendations on
7 how we can improve our state's handling of defendant
8 abusers, their victims and the subject of domestic
9 violence as a whole.

10 Again, I appreciate you being here today.
11 I hope today will be a great start, and I look forward
12 to continuing to build momentum through these meeting.

13 I'd like to introduce to you the panelists
14 who are with us today:

15 Colleen Coble is the CEO of Missouri's
16 Coalition Against Domestic Violence and Sexual
17 Violence, and will be today's first presenter, and is
18 a well-known advocate, perhaps the best known advocate
19 on this topic across the state, and has been for many
20 years.

21 Jason Lamb, to her right, is the executive
22 director of the Missouri Office of Prosecution
23 Services and is a former prosecutor himself from
24 Audrain County.

25 Representative Chris Kelly represents the

1 southern part of Boone County, including the City of
2 Columbia, Missouri. He was elected to the House for
3 six terms from 1982 to 1994, and most recently
4 re-elected in 2008.

5 Senator Joan Bray, my colleague from the
6 Missouri Senate, served in the Missouri House between
7 1992 and 2000, when she was elected to the Senate.
8 She is finishing her final term representing part of
9 St. Louis County, and throughout her legislative
10 career has been an aggressive advocate supporting the
11 cause of reducing domestic violence in our state.

12 Senator Robin Wright-Jones represents the
13 Fifth Senatorial District in the City of St. Louis and
14 serves on numerous committees, including the Ways and
15 Means Committee. She previously served six years in
16 the Missouri House of Representatives.

17 Representative Tishaura Jones was elected
18 to the Missouri House in 2008 and represents part of
19 the City of St. Louis.

20 Representative Margo McNeil represents part
21 of St. Louis County and was elected to the House in
22 2008.

23 Representative Stacey Newman is the panel's
24 newest member of the legislature elected in 2009 and
25 serves parts of Richmond Heights and Clayton,

<p style="text-align: right;">Page 10</p> <p>1 Missouri.</p> <p>2 Representative Jeff Roorda, who will be</p> <p>3 joining us later, has represented Jefferson County</p> <p>4 since 2005 and is a 17-year veteran of law</p> <p>5 enforcement.</p> <p>6 And Representative Schupp was elected to</p> <p>7 the House in 2008 and serves part of St. Louis County.</p> <p>8 I welcome all of you. I thank you for your</p> <p>9 participation.</p> <p>10 And to begin the day, I would ask Colleen</p> <p>11 to start things off.</p> <p>12 TESTIMONY</p> <p>13 BY COLLEEN COBLE:</p> <p>14 MS. COBLE: Good morning. I'd like to</p> <p>15 start first with gratitude. I wish to thank the</p> <p>16 Attorney General and all of you for joining together</p> <p>17 to make certain that we in Missouri are doing all that</p> <p>18 we can through the structure of our laws, through our</p> <p>19 work together and through the services in our</p> <p>20 communities to address domestic violence.</p> <p>21 Chris will note, I have to say, it does</p> <p>22 mark a certain stage in one's life when you are asked</p> <p>23 to be the historian. So I will try to address</p> <p>24 30 years worth of incredible advocacy and effort and</p> <p>25 team work in the State of Missouri, and there are</p>	<p style="text-align: right;">Page 12</p> <p>1 was passed in 1980, that has fortunately lessened in</p> <p>2 frequency, but when that law was passed, it was</p> <p>3 immediately challenged. It was viewed at the time as</p> <p>4 something that should not happen; that an individual</p> <p>5 could be barred by court order from their own home, in</p> <p>6 this instance, respondents to orders of protection,</p> <p>7 who a judge had identified, had committed acts of</p> <p>8 violence and posed a threat to their family. It took</p> <p>9 two years for the law to be upheld by the</p> <p>10 Missouri Supreme Court, and it was determined at that</p> <p>11 point in law that the State has compelling interest in</p> <p>12 immediate protection of victims of domestic violence.</p> <p>13 Subsequently, probably the most amended</p> <p>14 part of Missouri statutes has indeed been the section</p> <p>15 of the law in Chapter 455 that addressed orders of</p> <p>16 protection, that defines domestic violence in all of</p> <p>17 its various components, that establishes how law</p> <p>18 enforcement are to respond, that sets up the practices</p> <p>19 and procedures for circuit clerks, as well as the</p> <p>20 parameters and authority of judges in addressing</p> <p>21 domestic violence.</p> <p>22 There are also provisions in there that</p> <p>23 provide confidentiality rights for the advocates who</p> <p>24 work in domestic violence programs with victims, as</p> <p>25 well as important structures for their establishment</p>
<p style="text-align: right;">Page 11</p> <p>1 materials in your binder that have a chronology of</p> <p>2 every law that was passed over the years. So in</p> <p>3 studying that in detail, you can see what, indeed, has</p> <p>4 been an evolution of law.</p> <p>5 I've been fortunate to be advocate for</p> <p>6 woman who are victims of sexual and domestic violence</p> <p>7 since 1983 and have worked in the legislative arena</p> <p>8 since 1989.</p> <p>9 Probably the most salient feature of law</p> <p>10 about domestic violence is that it is so very recent.</p> <p>11 The violence itself is ancient. It was upheld by law,</p> <p>12 it was part of law, but that is no more. The very</p> <p>13 first domestic violence law was passed in 1980, the</p> <p>14 Adults Abuse Remedies Law is what it was known as.</p> <p>15 And a great deal of leadership for that passage came</p> <p>16 from the work here in St. Louis, legal services of</p> <p>17 St. Louis, with the advocates who are operating, what</p> <p>18 was at that point, just a handful of domestic violence</p> <p>19 programs in this state. That was a profound change in</p> <p>20 how law began to address domestic violence. It</p> <p>21 established orders of protection. For the first time</p> <p>22 a battered woman could go to court for emergency</p> <p>23 protection when she was in danger and her children</p> <p>24 were in danger in her home.</p> <p>25 And then something happened after that law</p>	<p style="text-align: right;">Page 13</p> <p>1 to make sure that every program in the state that</p> <p>2 addresses domestic violence has a survivor of that</p> <p>3 violence as a part of their leadership and boards of</p> <p>4 directors.</p> <p>5 It's a very complex chapter of law because,</p> <p>6 as the Attorney General already spoke, it has been</p> <p>7 added to, added to, added to over the course of</p> <p>8 30 years. I would not say that -- in the context --</p> <p>9 this is not, I hope to be seen as a critique of those</p> <p>10 laws, but an opportunity, as has been done in the</p> <p>11 past, to strengthen laws, to find out just where are</p> <p>12 those different definitions of the domestic violence</p> <p>13 that conflict, the 1982 version compared to the 2004,</p> <p>14 and we have an opportunity to make sure those laws</p> <p>15 work seamlessly to address all of the many layers of</p> <p>16 community responses that respond to domestic violence,</p> <p>17 and there's many of them in our state.</p> <p>18 In 2009, there were around 50,000 woman and</p> <p>19 children and men served in domestic violence programs</p> <p>20 around the state. Almost 11,000 were provided with</p> <p>21 emergency shelter. Keeping in mind, the majority of</p> <p>22 those are children. But 2009 also marked a high-water</p> <p>23 mark, for every two woman that were admitted into a</p> <p>24 shelter, three were turned away because they were</p> <p>25 full. Our numbers continue to climb and our law</p>

1 enforcement reports continue to escalate. They
2 average about 32,000 a year and that is considered
3 often to be an underreporting of a level of crime. We
4 receive about 90,000 hotline calls a year. And when
5 we did a one-day census, as we do in this state every
6 year, there were 500 calls in one day, emergency
7 crisis calls asking for assistance in the State of
8 Missouri.

9 On that one day, last September 2009, there
10 were over 2,000 woman and children served in programs
11 around the state. 1,200 were provided with shelter,
12 another 800 were provided with the advocacy services
13 involving law enforcement, the courts and other
14 systems of response. We have a very specific and real
15 problem in Missouri and we have a tremendous
16 opportunity to address it.

17 One of the things I've learned in working
18 the Capital was the importance to follow the rules of
19 three: Have no more than three points, be able to say
20 it in three minutes, and Lord have mercy, do not give
21 a legislature more than three pages of information.

22 Trying to stick to that, there have been
23 three main reasons for changes to the laws in
24 Missouri. The first has been the experience of
25 survivors, what is going on in their lives, what do

1 they need to be safe, what hasn't happened well, if at
2 all, and what they're needing, as well as the
3 advocates that work with them identifying we don't
4 have this in place, we need to change this, we need to
5 enhance that.

6 And the second and probably the most
7 profound reason that has led to the evolution of laws
8 is the unrelenting determination of abusers to find a
9 hole in every single statute, to manipulate the
10 system, to find the one action that can be committed
11 that the law doesn't cover and to be able to do it as
12 soon as August 28th rolls around every year when the
13 law goes into effect. That has been a primary driver
14 of the changes in laws.

15 When we passed the first stalking -- let me
16 get to the third point.

17 The third point has been the identification
18 by our partners not only in the day-to-day advocacy,
19 24-hour realm of shelter and related services but law
20 enforcement responses, circuit clerks, prosecutors,
21 judges, probation and parole, school teachers,
22 healthcare professionals, child protection services.
23 When you talk about domestic violence and all of the
24 people who touch an individual family, we're talking
25 about every aspect of our community. So when the

1 means are identified by those who help and who
2 respond, that's been a driver of our changes in
3 statutes.

4 I mentioned the stalking laws that were
5 passed in the mid '90s. That wasn't news to battered
6 woman. That's just what you would expect to happen
7 when you left the abuser. He followed you, he called
8 you, he harassed you at work, left threatening notes
9 on your car. The law recognized what woman had been
10 enduring and living with for many, many years, and we
11 passed those stalking laws that became a reason to get
12 an order of protection.

13 As our families changed over the years, we
14 changed who could get an order of protection. The
15 very first law in 1980 said married couples. Over
16 time that has been broadened to be those who have a
17 child in common, whether they've ever lived together
18 or not, and now, to the extent where we recognize the
19 rates of violence amongst dating couples are
20 astounding, they are also covered. There's been those
21 evolutionary changes where we have recognized what is
22 going on in the lives of woman and children, what
23 offenders are doing and we've changed the laws to do
24 that.

25 It's also been a practice in Missouri,

1 as the Attorney General mentioned, to have groups such
2 as yourselves gather to identify what can be changed.
3 John Ashcroft had the first when he was governor.
4 There has been subsequent House interim committees.
5 There have been task forces and study groups within
6 state departments, so this has been an ongoing
7 tradition. Some of the most significant changes to
8 the laws occurred when those such practices happened.
9 After Governor Ashcroft's Blue Ribbon Task Force in
10 1989, one of the most sweeping to date changes in law
11 occurred, and some of those now are so commonsense
12 that it's interesting that it was a struggle to get
13 those laws passed. It used to be, before 1989, that
14 if you were battered and the police showed up at your
15 house and you wanted your husband or boyfriend to be
16 arrested, you had to sign out a complaint in front of
17 the person who had just hurt you. Didn't make much
18 sense, but that was the practice. And a woman being
19 smart enough to know exactly what to do and tried to
20 enhance their safety wouldn't sign. They would be in
21 danger.

22 Police practices were changing. A study by
23 the Police Institute said the way you stop domestic
24 violence is you make an arrest, but that wasn't
25 allowed in Missouri's law. Probable cause arrest

1 without a victim's complaint and without willingness
2 changed in 1989, and arrest rates went up and violence
3 went down.

4 There were also changes that made a huge
5 difference. No filing fees for obtaining an order of
6 protection. And I remember when I was working at the
7 shelter, and nobody was making any money then, or now
8 I might add, and we kind of had a round-robin rotation
9 for who was going to go to the bank and get the money
10 to help somebody file for an order of protection. It
11 was at least 60 bucks; it went up to almost 100. In
12 1999, we recognized that in an emergency, that
13 shouldn't be a barrier to your safety.

14 There were greater provisions that detailed
15 just how law enforcement was to respond; that they
16 were supposed to identify the primary physical
17 aggressor; that they were to identify the history of
18 violence between the parties. And a statement of law
19 that says the reason for the laws being was to protect
20 victims from ongoing violence. And it changed the
21 nature of law enforcement response and the
22 partnerships that were growing at the community level
23 between survivors, the advocacy community, law
24 enforcement, prosecutors. Prosecutors had different
25 kind of reports as a result of that law that they

1 could use to prosecute and judges had the information
2 that they needed to make decisions to hold batterers
3 accountable.

4 There were changes again driven by "we
5 missed this" and batterers were taking advantage of
6 it. So we keep tightening up and enhancing domestic
7 violence laws over the years. There was another
8 profound leap ahead in 1999 to 2000, when there was a
9 House interim committee on domestic violence. For the
10 first time we created a separate crime of domestic
11 assault. There had been some earlier provisions and
12 statutes that said you could be a prior persistent
13 domestic violence offender, but that meant somebody
14 had to crawl around in the records room at the
15 courthouse to find out what the relationships were
16 because we didn't identify it. At that point, we had
17 the separate crimes of domestic assault, which have
18 made a dramatic difference and profound tool for
19 prosecutors.

20 Time is running short. I could go through
21 every year. I was talking with Senator Wright-Jones
22 earlier today. Some of the things that were hardest
23 to get passed in law were the most minimal, and some
24 of the things that had the biggest effect went right
25 through.

1 There have been changes in the Federal law
2 that Missouri has to comply with. You can't charge
3 for orders of protection or service of orders or
4 service of warrants and maintain your funding from the
5 Department of Justice. An order of protection is good
6 across state lines now because of Federal legislation,
7 and that's a big deal for a boarder state like
8 Missouri. There are areas where the new
9 communications devices and materials that are --
10 cyberstalking, a bill just a couple years ago that
11 really expanded aggravated stalking and has given law
12 enforcement tremendous new tools to address domestic
13 violence via stalking as it continues.

14 So my expectation is that we will continue
15 to honor the experiences of victims of violence so
16 they can make that transition to being survivors of
17 violence; that we will make sure we are consistent in
18 law; that we will find ways that we can work together
19 better on the community level; and that we will insure
20 that the State's resources are well used. As we who
21 are safe -- we who are safe have the privilege of
22 helping those who aren't.

23 ATTORNEY GENERAL KOSTER: Thank you. A
24 couple of housekeeping issues, Joan, on the
25 spreadsheet that encompass the written responses on

1 strengths and weaknesses, were copies of these given
2 to the panel members?

3 MS. GUMMELS: No.

4 ATTORNEY GENERAL KOSTER: I have found this
5 document very helpful, so if there is a way I could
6 ask you to -- I don't know -- if I could ask you to
7 make ten, 15 copies of this document, I think -- this
8 is a sort of a legislative spreadsheet, the kind of
9 thing you get out of legislative research. We
10 surveyed probably ten different advocacy organizations
11 asking them to provide three strengths of the current
12 systems, three weaknesses and suggestions for
13 improvement. Joan has put them in sort of a leg
14 update, which I think you'll find helpful to review.

15 Second housekeeping matter, Jeff Roorda was
16 not here when he was introduced. You were introduced,
17 but Jeff, who is a member of the House, and 17-year
18 member of the law enforcement community south of
19 St. Louis.

20 The other person I neglected to introduce
21 is to my right, Judge Joe Dandurand, who as the Deputy
22 Attorney General has spent -- importantly, I think,
23 spent 20 years on the bench in the 17th Judicial
24 Circuit just south of Kansas City and has extensive
25 personal experience as a jurist working with these

1 issues on a very firsthand basis, so really has a lot
2 of street credibility, for lack of a better term, in
3 dealing with these types of issues and how the court
4 system interacts.

5 Colleen -- and before I ask the panel
6 members if they have any questions, in your response
7 to that survey that we just sent off to have copied
8 you mentioned -- and a number of organizations
9 mentioned gaps in the current order of protection
10 laws, anything you want to flush out along those
11 lines?

12 MS. COBLE: One of the easiest things would
13 be to give judges more authority over the contents and
14 provisions in orders of protections. Other states --
15 most other states have what is commonly known as a
16 catch-all provision so a judge can customize an order.
17 We can't think in the legislative arena of every
18 possible contingency that would be going on in
19 someone's lives. To give judge's that authority would
20 be important. To be able to have those laws, the
21 orders exist longer in time so that someone who is in
22 a chronically violent situation doesn't have to keep
23 coming back to the Court to have orders issued. Right
24 now they last for one year.

25 An emerging issue that is reaching crisis

1 proportions is that teenagers can't get orders of
2 protection. Child orders set up so that it protects
3 the child from an adult, but the reality of 15, 16,
4 and 17 year old who are in dating relationships where
5 the violence is severe is growing, and we don't have a
6 tool to address that.

7 I think there are provisions in what is
8 arrestable for a violation of an order of protection
9 that could be strengthened and enhanced.

10 Also I think that there's some problems
11 with child orders, and it goes back into the history
12 of when they were first passed. In the early '90s,
13 most children weren't subject to orders of the court
14 by the time they were two or three. With the rates of
15 divorce that go on now, it's not uncommon for children
16 to be subject to a court order, but child orders of
17 protection statutes, say, can't issue one for a child
18 who is the subject of a previous court order. It
19 almost nullifies it for almost half of those that are
20 coming to court to seek that relief.

21 I also think there's strengthening that can
22 be done through training and teaching. There is a
23 provision in law that allows judges to hold compliance
24 hearings for those who are subject to orders of
25 protection, much like you would do in a drug court. I

1 want you back here next Thursday. I want you to show
2 me that you've paid what you, that you've done this,
3 that you've enrolled in a batterer intervention
4 program. Those can be highly effective, but I don't
5 know that they're used to -- as great of an extent in
6 the State of Missouri as they could.

7 There are a few more things, but I think
8 I'll stop there. Those are some highlights.

9 ATTORNEY GENERAL KOSTER: For those who
10 have noticed, there is a court reporter with us, and
11 there will be court reporter at all of the meetings.
12 A lot of times good ideas get offered and because of
13 the speed with which the day goes, they evaporate.
14 And so just as we did at the Link conference on the
15 environmental issues, I find that having a court
16 reporter is helpful. It's obviously a public document
17 and will be up on the web when it's turned into us.

18 Questions from the panel? Senator Bray.

19 SENATOR BRAY: Colleen, a subject dear to
20 my heart and yours is the issue of weapons in domestic
21 violence situations. I know there's a Federal law.
22 Is there anything that's going on that disadvantages
23 Missouri in light of Federal provisions due to the
24 fact that we allow weapons to remain in a violent
25 home?

1 MS. COBLE: I would say it's an emphatic
2 yes. One of greatest causes that re-validate in
3 domestic violence situations is the presence of a
4 weapon; yet, Missouri is one of only a handful of
5 states that hasn't enacted what was passed in the
6 Violence Against Woman Act in '94, which is a Federal
7 prohibition against gun ownership, possession or
8 purchase by domestic violence offenders and by the
9 subject of to a full order of protection.

10 I was at a meeting with Alcohol, Tobacco
11 and Firearms and FBI agents this summer, and we truly
12 are one of the last states to have our own state laws
13 that lets law enforcement officers do their jobs of
14 keeping people safe. When they show up at the scene
15 of a domestic violence crime they can't confiscate the
16 weapon. It just isn't sensible in terms of public
17 safety when they're at the call of a violent crime.
18 It's been very controversial, as you know, as the
19 sponsor of the bill.

20 SENATOR BRAY: Are we losing anything
21 Federal government funding-wise by not doing that or
22 by not changing that? You know is there any kind of
23 incentive that's going to come from outside --

24 MS. COBLE: You could measure certain
25 economic effects of violence, but one of the biggest

<p style="text-align: right;">Page 26</p> <p>1 is we've lost safety, we've lost lives, we've lost the 2 ability of law enforcement to do their jobs. We've 3 lost the ability of prosecutors to prosecute if they 4 aren't U.S. Attorneys offices, and judges have lost an 5 important provision to be able to hold offenders 6 accountable when they are at their most dangerous. 7 And it has not caused great problems in other states. 8 When you have more than 40 states who have enacted 9 parallel state legislation, we have the opportunity to 10 show that it is workable and it has reduced violence. 11 ATTORNEY GENERAL KOSTER: Other questions? 12 Senator Robin Wright-Jones. 13 SENATOR BRAY: Thank you, Colleen for your 14 information this morning. As you spoke about the 15 statistics for 2009 and I looked on the web this 16 weekend and see St. Louis is one of the most stressed 17 cities in the nation, a lot of that has to do with 18 poverty and crime and domestic violence and that type 19 of thing. I assume that's why we've had that 20 elevation across time. 21 Are you finding that when you come to the 22 general assembly that you are meeting resistance of 23 any kind, has that lessened, has that increased? What 24 is your feeling of how we're working this issue? 25 MS. COBLE: I think the level of</p>	<p style="text-align: right;">Page 28</p> <p>1 As it relates to dating violence of the 2 teenagers, I had a family friend's granddaughter call 3 me about her best friend that was pretty well beaten 4 up in a relationship, didn't know where to turn, what 5 to do. I said call the police, file a report. I 6 guess that's what a teenager can do. With the parent 7 involved, what happens exactly right now with that, if 8 there's a teenager that -- who has been impacted by 9 this? 10 A. Two years ago the law was changed that a 11 17 year old can get an adult order. That's made a big 12 difference in this community. It has to be against 13 another adult. So you're still at the situation that 14 if you are a minor, your parents can take you to the 15 courthouse and get a child order of protection as long 16 as the person who's harming you is a grownup, is an 17 adult. That's the problem, you can't get one against 18 your 16-year-old boyfriend. 19 SENATOR WRIGHT-JONES: All right. Thank 20 you. 21 ATTORNEY GENERAL KOSTER: 22 Representative Roorda. 23 REPRESENTATIVE ROORDA: Thank you, General. 24 Good morning. First of all, good seeing 25 you. I haven't seen you for a while.</p>
<p style="text-align: right;">Page 27</p> <p>1 understanding -- it's been important -- excuse me -- I 2 think has increased. I would say the notable 3 exception is guns and money. 4 SENATOR BRAY: Isn't that the problem 5 across the board? Thank you. 6 ATTORNEY GENERAL KOSTER: Representative 7 Jones. 8 REPRESENTATIVE JONES: Thank you. 9 One of the primary reasons why I'm here 10 today is to learn more, and, of course, I've learn a 11 lot from you over the past couple years. You spoke 12 recently about how order of protections are and 13 restrictions in the law that doesn't protect children. 14 Can you expand a little bit on that? 15 MS. COBLE: I believe the intent when the 16 law was originally drafted was to avoid that you can 17 get an emergency order that would change prior custody 18 arrangements, so it was a sensible approach at that 19 point. But now there needs to be flexibility to allow 20 a court order to protect someone that may, indeed, 21 change custody in an emergency situation until the 22 court can convene and address that more fully. But 23 what we have right now is those emergency orders can't 24 even be issued. 25 SENATOR WRIGHT-JONES: One other question.</p>	<p style="text-align: right;">Page 29</p> <p>1 When I left local law enforcement, and I 2 was a supervisor when I left, supervisor for the last 3 six years in my police role and I had a simple rule 4 when it came to responding to domestic violence, if we 5 come, you go, and that was essentially the law. You 6 know, you had to take a report the first time. You 7 had to make an arrest the second time. There was 8 still a lot of systemic problems in law enforcement 9 with an officer trying to find a way to dump these 10 calls and calling it a peace disturbance instead of 11 domestic violence or reclassifying it in some way to 12 avoid having to write a report or having to make an 13 arrest, which I always thought was incredibly solute 14 because you inevitably returned and returned a -- 15 having been out of law enforcement for a while, I'm 16 wondering if that's still a problem that you see, and 17 do you have any recommendations for how we, as 18 lawmakers, might successfully address the issue? 19 MS. COBLE: I think the issue of training 20 might help because you are quite accurate. The 21 problem is the inconsistent application of the law 22 around the state. So that in some communities you 23 have incredible responses that are so meaningful to 24 women who are experiencing violence and to have the 25 responses --</p>

<p style="text-align: right;">Page 30</p> <p>1 REPRESENTATIVE ROORDA: Meaningful to men, 2 too, because when they see there's no tolerance -- 3 MS. COBLE: Absolutely. So some of the 4 ideas are about training and better reporting and the 5 uniform crime reports to identity, well, how come 6 you're not having these calls in the community when 7 similar demographics are, and I think that some 8 leadership from law enforcement through this process 9 will identify others. 10 ATTORNEY GENERAL KOSTER: 11 Representative Newman. 12 REPRESENTATIVE NEWMAN: Colleen, I just 13 wanted to ask you real quickly what your experience 14 has been with the legislature in terms of the concept 15 or the term domestic violence? I've worked with 16 Senator Joan Bray in 2003 on firearms legislation, and 17 we all know the realities of that bill. But what has 18 your been experience in terms of dealing with just 19 what domestic violence is, has it found it favorable 20 in the legislature? 21 MS. COBLE: Which decade are we talking 22 about? I think as a testament to the work of the 23 domestic violence movement, the battered women's 24 movement, survivors themselves, their advocates, 25 there's been tremendous social change, and I think</p>	<p style="text-align: right;">Page 32</p> <p>1 orders issued by the domestic court and the 2 possibility of a child order of protection changing 3 custody? You have a very huge possibility of conflict 4 between two courts. 5 MS. COBLE: What I do know is that courts 6 are already addressing changes in visitation and a few 7 case law names I know, Zuhlke v. Zuhlke did change, so 8 that judges can change visitation arrangements under a 9 child order. 10 I would imagine that it would be easier in 11 certain unified courts, in family courts or in 12 domestic violence courts -- and there's very few of 13 those in the state -- that they would have more of an 14 ability to address the family through the subsequent 15 orders that are issued. But, again, I would think I 16 would have to defer to the judges and court personnel 17 and people with experience, like yourself, of how that 18 could be worked in practice. 19 MR. DANDURAND: One of the issue -- my name 20 is Joe Dandurand. One of the issues that, I think, 21 would help with that is the judicial education that 22 you spoke of. One things we did in our circuit to 23 help for localizing things was to make an automatic 24 transfer of the case that was filed for child 25 protection to the court to the judge who was the</p>
<p style="text-align: right;">Page 31</p> <p>1 that's reflected in the makeup of the legislature, 2 they're exposure to the topic and their understanding 3 of it. Certainly some are faster learners than 4 others, but it's all in all been very positive. 5 One thing that I do think speaks to some of 6 the societal changes that have yet to occur are the 7 number of individuals serving in the legislature, 8 serving in state government, serving at the community 9 level of positions of authority who still have the 10 conversations off to the side that say, you know, this 11 happened to my mom when I was growing up. You know, 12 I've had to go to court to get any daughter a 13 protection. You know, my best friend in college 14 didn't make it to grad school. There's still some 15 elements there where you can't have that -- where 16 shame or embarrassment or fear gets in the way. But 17 you can't have that many men and women gathered in big 18 marble building in five months out of the year and not 19 have an enormous collection of people who know 20 firsthand what domestic violence is. 21 ATTORNEY GENERAL KOSTER: Okay. Thank you 22 very much. Colleen is a very -- Representative Kelly, 23 sorry I didn't see your hand. 24 REPRESENTATIVE KELLY: Thank you. How do 25 you deal with the potential conflict between custody</p>	<p style="text-align: right;">Page 33</p> <p>1 presiding judge over the domestic case. So it 2 automatically went to that judge so you couldn't get 3 inconsistent judgment, you'd have the same judge 4 looking at it with the same pair of eyes. To try to 5 -- when people move, those are concerns, but it took 6 care of a large portion of the practical problem. 7 MS. COBLE: Within that circuit. 8 REPRESENTATIVE KELLY: In my experience, 9 you are very likely to get the original order issued 10 in that circuit, and that's a huge issue. The other 11 piece of that is how do you deal with the 12 inappropriate use of child orders for purposes of 13 change of custody because that comes out a lot? 14 MS. COBLE: I know that it does, and I know 15 that was the subject of a Missouri Supreme Court Bar 16 Association study in the early '90s, and they found it 17 was driven by family law attorneys, and the answer to 18 that was judicial education and judges saying no. 19 REPRESENTATIVE KELLY: Well, the third part 20 of that question is as much for the panel. 21 Conceivable that we should consider some 22 recommendation to the bar or to the Supreme Court 23 about the ethics of domestic violence automatically 24 applying when filing a divorce also for orders of 25 protection. There's no such thing as a pleasant</p>

1 divorce, but that doesn't mean that every divorce
2 arises in a domestic violence arena.

3 MS. COBLE: I agree.

4 ATTORNEY GENERAL KOSTER: Thank you,
5 Colleen.

6 Colleen, of course, will be on the panel as
7 we go city to city and will instrument in drafting the
8 final white paper.

9 Bob, if you are ready to come forward.

10 Bob McCulloch, since 1990 has been the
11 prosecuting attorney in St. Louis County, the State's
12 largest, which includes 91 municipalities and 65
13 police departments. He's prosecuted and convicted
14 several of Missouri's most violent and dangerous
15 felons. His domestic violence division consists of
16 five specially-trained prosecutors who handle
17 misdemeanor and felony domestic violence cases,
18 including ones involving assault, kidnapping,
19 felonious restraint, false imprisonment, violation of
20 adult abuse orders, unlawful use of a weapon,
21 harassment and stalking.

22 He is one of the several deans of the
23 prosecutorial community and former colleague and great
24 friend. Thank you for coming today.

25

1 TESTIMONY

2 BY MR. ROBERT MCCULLOCH:

3 MR. MCCULLOCH: Thank you, Mr. Attorney
4 General and panel members for having me.

5 First I have to update that. We've -- 65
6 police departments, that's ancient history. We're
7 behind that now. Some have come on-line.

8 And also, the good part is, I'm happy to
9 say we have six people now in the domestic violence
10 unit. That's good in the sense that we have more
11 people, more eyes on it. It's bad in we have the
12 business to justify putting another person into it. I
13 do -- I think it's a terrific idea to have this panel
14 to look at this issue, to examine it and to see what
15 we can do to improve it. You know the law and all the
16 legislatures certainly know that and all the law
17 enforcement people up there know the law is an
18 evolving thing.

19 As Colleen mentioned, dean, that's a nice
20 way of saying you're an old guy, too, you've been
21 around a long time.

22 But I can recall as a -- almost freshly out
23 of law school in 1978 when I started in the county
24 prosecutor's office. I got to work a Saturday morning
25 in the warrant office to handle the intake from Friday

1 night, and the one case -- and I'm sure there were
2 several that day -- but the one that still stands out
3 in my mind was a case of domestic violence. And when
4 the case came in, one of the rare situations in which
5 the victim came along with the police officer and she
6 had been beaten pretty severely. She had been treated
7 at the hospital, and she was in the hospital most of
8 the night and in our office in the morning. And in
9 1978, the policy of the prosecutor's office was you
10 automatically take those cases under advisement
11 regardless of the severity of the injuries involved,
12 because invariably the victim will come back and say,
13 you know, I've thought about it and I don't want to
14 prosecute. So the policy was take it under
15 advisement, come back or call me Monday, and tell me
16 what you want to do.

17 In this particular case, this young lady --
18 and as I said, she was beaten pretty well. She said
19 well, can I have at least enough time to get my stuff
20 out of the house -- if he's going to get out of jail,
21 he's coming back to the house. I said, you know, this
22 is really stupid. So we did issue the charge, filed
23 the charge, at least held him in jail on Monday
24 morning when there was a bond hearing. And the
25 reaction to that was -- there were are several

1 reactions to it.

2 One, first thing Monday morning, I was
3 called in the prosecutor's office and asked why I was
4 violating his policy.

5 Second, I went up for the bond hearing and
6 the star witness was the defendant to reduce the bond
7 was, indeed, our victim who said, it was all a big
8 mistake, don't do. And so these things make a very
9 lasting impression on you.

10 I'm very happy to say that within about six
11 months we had a new prosecutor in the office -- it
12 wasn't me -- but a new prosecutor in the office and
13 immediately dropped that policy. Said we'd look at
14 cases, if they ought to be issued, issue them, and if
15 it helps to protect the victim, whether it's a
16 domestic violence situation or not, then file the case
17 and we'll worry about it later, as long as there's a
18 basis for filing that case. So we developed that.

19 As the years went by, Colleen did a
20 terrific job laying out the different steps that took
21 place over the years and how those things were
22 addressed. I don't have any difficulty telling you
23 that the early years it would come up and we'd say
24 what kind of case is that, it's a domestic case, all
25 right, fine, no big deal, go on to something else. So

1 a domestic case and an assault case were different
2 things. Even though there was no domestic assault
3 then, it was assault, assault, assault, but if it was
4 a domestic case, it wasn't that big of a deal.

5 Unfortunately -- although fortunately, I
6 should say, a lot of the procedure, the process, the
7 approach to domestic violence cases has changed. One
8 thing that has remained consistent is that we know
9 within 48, 72 hours our victim will contact us and
10 will wish to drop the prosecution, does not want to
11 pursue it. In most cases, they've had contact with
12 the abuser, you know, they've made up. He's promised
13 it will never happen again, he won't do this, look,
14 how are you going to support the kids, if I go to
15 jail, you can't support the kids, what are you going
16 to do? So the lesser of two evils there is I don't
17 want to pursue this thing. And it puts us in a bind,
18 of course, because most times we had no way to
19 prosecute the case without the cooperation, without
20 the assistance, without the testimony of the victim.

21 Again, the law evolved a great deal and we
22 evolved with it. Part of that is when I did take over
23 some years later as the prosecutor, we established the
24 domestic violence team. I don't have training for
25 every prosecutor in my office in the area of domestic

1 violence because these six people handle all the
2 domestic cases that come in, so they get the training.
3 It doesn't make sense to me to train somebody in
4 domestic violence who's not going to handle one, and I
5 think -- it's going to be sort of thoughts flying out
6 here after hearing Colleen talk that that's part of
7 it. Not every police officer needs training in
8 domestic violence, but the ones that are going to be
9 handling those cases absolutely have to have it, and I
10 think that's a much better approach to it.

11 But one change to the system we developed
12 was to add a page basically to a police report that
13 involved a domestic violence case. What that did was
14 it required the officer -- and I'm going to preface
15 this with a little caution -- that with 65 to 70
16 police departments some are much better than others
17 and much better at following the procedure and
18 accepting the training and the direction that goes
19 along with that.7 but what it did is it required the
20 officer to detail what went on at the scene.

21 Prior to that, we would get a report that
22 said, when I arrived, the victim was screaming
23 hysterically, which, of course, is accurate, 100%
24 accurate, but there's nothing I can do with that.
25 When the victim chooses not to cooperate down the

1 line, I can't make her cooperate with the spousal
2 immunity -- which I'll talk about in just a few
3 minutes, too -- but when the officer writes down when
4 I arrived, she was screaming hysterically, saying he
5 beat me, he hit me with a stick, whatever it was the
6 guy did, write down what she had to say, I can use
7 those as an excited utterance, I can use that as
8 exceptions to the hearsay rule. There's actually
9 something there, there's some substance there, and it
10 works very well. When that -- that activity, when
11 those comments, when those statements are documented,
12 they're in there.

13 You know, I can't use when the guy comes up
14 and says -- the report says, well, the defendant said
15 he didn't hit her with a bat. Okay. Maybe I can use
16 that, maybe I can't. But when he comes up and says,
17 you know, the guy grabbed the chair from the table and
18 started pounding her with it and boy, did she deserve
19 it, and it's a little more graphic than that, those
20 are statements that you can use.

21 But in the past, they tended to be very
22 general statements, the defendant said he hit her but
23 it wasn't that big of a deal or whatever it happened
24 to be. So we try to get them to write down as close
25 to what was said as they could recall and that makes a

1 big difference on it.

2 We have never had -- and although, we've
3 debated it many times, a no-drop policy, where every
4 case gets issued and we will not drop that case under
5 any circumstances because I think it's a bad idea.
6 It's a bad idea because many times it puts the victim
7 in much greater danger to say you're not -- we're
8 going to proceed with this thing no matter what. We
9 will look at each case as it comes through, and as it
10 progresses and as our victim cooperates or doesn't
11 cooperate, decide what we need to do in the situation,
12 what we're going to do in that situation. And there
13 are times when it's run the entire gamut from the
14 victim coming in and saying exactly what occurred that
15 night and being very, very cooperative in the
16 situation, all the way up to the point where the
17 victim will come in and say I don't know what you're
18 talking about, it didn't happen, the police made it
19 up.

20 To tell you the truth, I don't have the
21 slightest problem -- I can't encourage a victim to
22 come in and say that, wouldn't do that. I want them
23 to come in and tell. But a victim coming in, when I
24 can tell in the photographs of this terrible beating,
25 and her to say the guy sitting over there, who has a

1 history of having done this and the arrest sometimes
2 comes in sometimes doesn't, no, nothing happened, I
3 don't know what you're talking about, the police told
4 me what to say, I didn't say it.

5 So all of those things -- the more detail
6 that we have, the more we have to work with them and
7 the better off we are. And, again, I think the
8 training is -- training is key to everything. That's
9 why we spend as much time and effort as we can
10 training our domestic violence prosecutors to look at
11 the cases as they come in.

12 Representative Kelly, it is a very
13 difficult situation when an abuse case comes in, and
14 one of the things we look for is that -- is there a
15 history. We have situations -- that's one of the most
16 difficult decisions we have to make. And that is a
17 case in which this couple has been married for 20
18 years and now there's a divorce filing. In the
19 meantime, they've raised three kids who are now all
20 teenagers, there's never, ever been any kind of an
21 incident or history or anything, anywhere until the
22 divorce is filed and now all of the sudden he's
23 abusing me and sexually abusing the children. You
24 know, those are very, very difficult cases because
25 many times it true, and sometimes it isn't true, and

1 we have to be able to draw that distinction. I wish
2 there was a perfect, infallible, scientific method for
3 doing that, but unfortunately there isn't and that's
4 where the training and the experience comes in to work
5 on those cases very much.

6 Over the years, we have experienced
7 certainly an increase. Is there an increase in the
8 domestic violence, I'm sure there is, but, certainly,
9 there's an increase in the reporting, and that's
10 generally a good thing.

11 I will go back to the late 70s, early '80s.
12 When we started filing these cases we knew the guy was
13 going to go get out on bond and there were no orders
14 of protections then, there wasn't much we could do
15 about it except say you need to get whatever it is you
16 need out of that house and move. And to tell the
17 victim they have to move out of their own house is a
18 horrible thing to do, but there was nothing we could
19 do to prevent the defendant, once he came out of jail
20 -- particularly if the charges were dropped or never
21 filed, there's nothing we could do to tell him he
22 couldn't go back to his house. Now, on a bond, a
23 judge could do that sometimes, but, again, this is
24 just a domestic case, it's his house, I'm not going to
25 kick him out of his house. Those attitudes changed

1 over the years. They developed -- they evolved along
2 with the law as we went along.

3 There are still clearly some issues. We
4 have to do that. No question that the more difficult
5 the economic times are -- we see an increase in
6 domestic violence, the alcohol use, drug abuse, drug
7 use -- you know, whether one goes with the other or is
8 exaggerated or aggravated by the other, that's up to
9 the social scientists to come up and tell you about
10 that. Telling you from a practical matter, yes, when
11 economic times are bad, we see more guys getting drunk
12 and beating up their wives and girlfriends, and there
13 are serious issues just in the process and in the
14 procedure that is involved.

15 One, is that -- you're an adult in the
16 State of Missouri when you're 17. And when you're 17,
17 we get involved. So if you're 17 years old and you
18 beat up your 16-year-old girlfriend, that comes to me,
19 that comes to my office. But if you're 16 years old
20 and you beat up your 17-year-old girlfriend, I may
21 never have to know about it. We have nothing to do
22 with juvenile prosecution in the state of Missouri. I
23 know it is counted as a model for the country, but,
24 you know, a system where the prosecutor doesn't know
25 about an assault such as that where you may be able to

1 do something -- I don't mean send the guy to the
2 penitentiary, but there are things in the adult system
3 that are not available in the juvenile system. The
4 juvenile system is not equipped to handle an awful lot
5 of violent criminals, they're just not equipped for
6 that. They were never set up for that and never
7 designed for that. I generally think it's a bad idea
8 to have them there.

9 Unfortunately, unless there's a murder or
10 something very close to death, the odds are we are
11 never going to get that case. When we do get it,
12 generally we get it when it's all over and done with.
13 We will get it when the beating is done, the guy's
14 been locked up, there's a hearing he's been certified
15 on. Things have changed in the last several years in
16 the juvenile process.

17 We are at least now entitled to know about
18 it. Not too many years ago it was a misdemeanor to
19 tell me, as the prosecutor, that he had arrested as a
20 juvenile. I'm sure the statute has run by now, but
21 more than one of them violated that statute. They
22 would call and say listen, we've got one here that you
23 guys need to be taking a look at and unfortunately you
24 couldn't take a look at it. Even getting into the
25 juvenile system as the prosecutor was nearly possible.

1 So that, again, has evolved somewhat, not
 2 as far as it should have, but has evolved to the point
 3 where at least now we have access to the reports. We
 4 can approach the judge and say, judge, this is a case
 5 that we think you should send to the adult court, and
 6 here's why we think it should come to the adult court
 7 and here's what we purpose doing in the adult court.
 8 Now, the disposition, necessarily, because that's to a
 9 great extent up to the defendant, but at least we will
 10 file the charge and these services are available. It
 11 may involve some jail time, it may not, but at least
 12 there's services in the adult system that are not
 13 available in the juvenile system.

14 ATTORNEY GENERAL KOSTER: I have a
 15 question, and I'd like to get your response, get
 16 Judge Dandurand's response, former Judge Kelly's
 17 response and perhaps Colleen's as well.

18 Like you, I have thought through the issues
 19 of a no-drop policy and pressure points that the
 20 prosecutor's office can place on victims to, you know,
 21 continue in the system and help prosecutors do their
 22 jobs better. The elimination of the spousal privilege
 23 is very problematic. Even for the most aggressive
 24 prosecutor, it's just a very problematic issue.

25 So here's the question: Is it possible to

1 conceive, Chris, or Joe, or anybody, is it possible to
 2 conceive of a limited waiver of spousal privilege only
 3 if a jurisdiction has a domestic violence court in
 4 place and that the domestic violence court would
 5 not -- there would be almost -- it would weigh towards
 6 the civil side, so that if a victim has signed a
 7 complaint on the night in question, basically put her
 8 signature on a piece of paper, that if she doesn't go
 9 forward to testify that probably stems any
 10 opportunities the prosecutor has in the straight-ahead
 11 criminal system, but if there was some -- that
 12 signature that night and other evidence that was taken
 13 that night could sweep them into some type of a court
 14 supervision system that is quasi-criminal, less than
 15 criminal but does place them in some type of a
 16 monitored position for six months or so? Does anybody
 17 have any thoughts? Is that still too aggressive?

18 REPRESENTATIVE KELLY: That's the trouble.
 19 I did these dockets for seven years. I know every
 20 judge that does these things is troubled by the same
 21 thing. The problem you've got is not only are you
 22 forcing her to testify against him, but you're forcing
 23 her to testify against him in a civil proceeding, and
 24 that's a bigger -- you say quasi-criminal, but it's
 25 either criminal or civil, and these are civil. And if

1 she doesn't, then what, do you actually prosecute her
 2 for perjury, and then does that mean changing the
 3 victim into the perp? And that's a really
 4 difficult -- maybe Joe has a better perception of
 5 that.

6 Now with the non-married couple, I think
 7 you have a much, much different dynamic going on. And
 8 one of the things about this, in the civil order of
 9 protection what you could do is eliminate the
 10 automatic dismissal. Right now, petitioner moves for
 11 a dismissal, I have to dismiss, I don't have any
 12 choice at all. Maybe you want dismissal after a
 13 hearing. And I'm just thinking out loud here. I
 14 don't know how to get necessarily from here to there.
 15 But in the non-married request for a dismissal by the
 16 petitioner and if the court thought it was necessary,
 17 perhaps the court could have a further hearing.

18 One thing that would do is extend the time
 19 that the temporary order runs and, frankly, from the
 20 point of view of being a judge, I can't get to it for
 21 ten days. That is good because that's ten days of
 22 space. And in the real, but informal world of being
 23 there, I love those ten days to two weeks of space.

24 MR. MCCULLOCH: The civil world is pretty
 25 much out of my bailiwick, but I do understand that

1 part of the problem there. If you're going to compel
 2 someone to cooperate, if you will, doing it in a civil
 3 setting, I think -- because the end result in the
 4 civil disposition or in the criminal disposition isn't
 5 going to make any difference to this guy, whether it's
 6 civil or criminal, if he's intent on going back after
 7 her. At least in the civil -- I'm sorry -- in the
 8 criminal system, there are greater sanctions that can
 9 be imposed. There's a greater threat that can be
 10 imposed.

11 If I can back up a little bit, the reason
 12 for the spousal immunity, why I'd like to see it if
 13 not abandoned at least modified somewhat, is that we
 14 refuse to just drop a case if -- unless I should say,
 15 the victim shows up, sits down, meets with one of my
 16 domestic violence prosecutors and with the
 17 investigator on the case, with the victim service
 18 people and goes through the entire process, here's
 19 what we expect, here's why you shouldn't be doing
 20 this, why is it you want to do this, and we take it as
 21 far down the line as we can possibly do that. It is
 22 not uncommon -- in fact, it's probably more common
 23 than uncommon, that when the victim -- this is why we
 24 compel them to come to the office and not do this on
 25 the phone -- it is very common, it happens more often

1 than not, that either the perpetrator or someone
2 related to him brings her to the office.

3 Now in that situation, it is not -- I think
4 in most situations in which we see the spousal
5 immunity invoked, it's a threat of intimidation
6 against our victim. It is putting her in a box,
7 saying that's fine, it's either the direct
8 intimidation, you go in there and tell them you're not
9 testifying because of the spousal immunity or I'm
10 going to the pound you again, or they're in the
11 situation of look, honey, all you have to do is not
12 testify. I'm sorry. I will never do this again.
13 You're going to put me in jail. If I go to jail, who
14 is going to support the kids, who's going to make the
15 house payment, you can't do that. All you have to do
16 is go in and say I'm not testifying. That's the
17 situation we find more often than not.

18 Now, that's the assessment we have to make
19 when we say the spousal immunity goes away, to say
20 look we expect your cooperation. We do that in other
21 situations and other -- there's no scientific formula
22 to it. I wish there was. We take that and we have to
23 make an assessment, we have to make a threat
24 assessment on every one of these cases, and I can
25 almost guarantee we're going to see her again,

1 hopefully alive, if we don't pursue it. We may see
2 her again if we do pursue it, but at least we have a
3 chance at that point.

4 ATTORNEY GENERAL KOSTER: So does your
5 office require her to sign a written statement to
6 release -- to Nolle prosecute the case.

7 MR. MCCULLOCH: Basically, yes, an
8 affidavit, you know, of non-prosecution after we're
9 satisfied this is her decision. We will not talk --
10 just this week, this past week we had a lady show up
11 with another lady, and find who is this, she brought
12 me out here, and all my people know you press that and
13 find out who they are. Well, it was the defendant's
14 sister. You know, fine. Then why don't you come back
15 sometime. Because even taking her in at that point
16 and sitting down by herself and talking with her,
17 she's going to walk right back out and get in the car
18 with the defendant's sister and go home, so it doesn't
19 do us any good there.

20 ATTORNEY GENERAL KOSTER: I think a lot of
21 prosecutor's offices do that, perhaps not all, and for
22 that reason I want to bookmark that idea in the
23 record.

24 Did you want to say something?

25 MS. COBLE: You've done a great job of

1 describing the double bind. And there's a
2 long-standing position and opposition within the
3 advocacy community of undoing the spousal privilege
4 because of safety.

5 MR. MCCULLOCH: Right.

6 MS. COBLE: We're talking about a dynamic
7 that's unlike any other crime. You know, we don't
8 have systems that insure her safety. She may want
9 desperately for the violence to stop, but the way to
10 get there can pose greater risks at the same time for
11 herself and her children and her extended family
12 members.

13 Probably, my personal difficulty with it,
14 is the entire force of the state, a raid in unison
15 from the police to the prosecutors to the judiciary
16 can't stop him, and we're trying to make her do it,
17 and that philosophically and practically and daily,
18 there's a problem. How come we can't do a better job
19 of stopping him so that the entire system doesn't
20 pivot on her taking what is often a calculated risk on
21 her own life?

22 MR. MCCULLOCH: I wish I could argue with
23 you. It's not that every case depends on that
24 particular fact. In some cases, even where it
25 doesn't -- and I'm not sure that we would adopt -- I'm

1 not sure I would adopt the position that that's the
2 only possible way we can do it and there is a real
3 assessment there -- I mean, the assessment shows there
4 is a really true danger there. There's a history of
5 it, we know this guy, whatever it happens to be. You
6 know, you always have to count on the judicious juice
7 of any statute on the books and you have to count on
8 that. As I said, everything we do is a calculated
9 risk and there's no guarantees.

10 One example of how that is, we had a recent
11 murder in St. Louis County where our victim was
12 stabbed to death. She did absolutely everything she
13 could possibly do, including altering her route to
14 work, where she parked. She never parked at the same
15 place at the same time. Everything. This guy was so
16 intent -- and even served him with an ex-parte order
17 that was found next to her body after he stabbed her
18 and killed her.

19 It's heartbreaking, but that's -- it came
20 from a different county initially, and so we're
21 working on all the background, whether there were
22 issues there that perhaps in that situation -- I don't
23 know. It may have nothing to do with anything. It
24 may have been the very first. I doubt it. It may
25 have been the first incident, but we want to avoid

1 getting to that point. And if we want to avoid
 2 getting to that point by somehow not allowing -- and I
 3 just look at it from the other side, Colleen, not
 4 allowing the defendant to use that intimidation to
 5 prevent her from doing what she really wants to do.
 6 And I can tell you over the years, more than once, I
 7 sat down and said, that's fine, I'm going to give you
 8 a subpoena, and you show up and you testify and the
 9 first thing I'm going to ask you is you don't want to
 10 be here, do you? No, I don't. Why are you here?
 11 Because you made me come in.

12 Well, you know -- you also have to be
 13 careful in the cases when you pick that. A lot of
 14 these guys aren't bright enough to figure out what's
 15 going on.

16 DEPUTY ATTORNEY GENERAL DANDURAND: I know
 17 time is really short so I don't want to repeat too
 18 many things. I have lots of things I could go on
 19 about.

20 We're here looking for ideas and I think
 21 one of the things that Representative Kelly said is
 22 something we really ought to take a look at, and that
 23 is to give the judge the authority to not dismiss just
 24 because the victim comes in and says I want to
 25 dismiss. I've never thought about that. New ideas

1 talk -- thinking that through is something we need to
 2 put some thought into.

3 MR. MCCULLOCH: I agree, and having the
 4 flexibility.

5 DEPUTY ATTORNEY GENERAL DANDURAND: Come
 6 back in 90 days and we'll look at this again or we'll
 7 leave this case on file, that's a good thought.

8 MR. MCCULLOCH: Even the flexibility of the
 9 judge to put in various conditions on there, along
 10 with taking out the marriage, anybody, any domestic
 11 case, any case in which there's an ex-parte order
 12 because of abuse or stalking and allow that
 13 flexibility to put it in there.

14 ATTORNEY GENERAL KOSTER: So during that
 15 90-day interim in a community where there's a domestic
 16 violence court, would there be some type of
 17 supervision or counseling that you -- you do have
 18 supervision to some degree over that defendant (sic)
 19 during pendency of that 90 days, and if she still
 20 doesn't want to testify in 90, release him.

21 DEPUTY ATTORNEY GENERAL DANDURAND: I think
 22 a couple different things we're talking about. In the
 23 DV courts, where there's a criminal charge filed or
 24 the ex-parte situation in the domestic violence court,
 25 the prosecutor doesn't have to dismiss it because the

1 victims wants you to do so. That's -- but in the
 2 order of protection case, where there wouldn't be any
 3 supervision but the case would still be left open and
 4 the ex-parte order could remain in effect just because
 5 the judge said so and not because the victim said I
 6 want to dismiss this, it's not a difficult fix.

7 They're two different things. The DV cases the --

8 REPRESENTATIVE KELLY: Here's what happens,
 9 the petitioner files the order, either says that I
 10 want you to dismiss or just doesn't show up, doesn't
 11 show up a lot. So what I would do is look, and if she
 12 alleged he slapped me, doesn't show up, I say, okay,
 13 fine, dismissed.

14 She alleges my jaw was wired shut and my
 15 spleen is ruptured, what I would do, even though she
 16 doesn't show up, is continue and continue again until
 17 I was right up against the Supreme Court threat, you
 18 know, you have to dismiss these cases, nobody is
 19 showing up.

20 Yeah. So, theoretically, you'd have some
 21 kind of services, but if people just aren't showing
 22 up, it's a great difficulty with this whole thing.

23 ATTORNEY GENERAL KOSTER: Senator
 24 Wright-Jones.

25 SENATOR WRIGHT-JONES: And you may not be

1 the one to answer this question, but it comes to mind
 2 that we're talking on one end prosecuting and how we
 3 help change the laws to protect these women who find
 4 themselves in this situation. How much domestic
 5 violence prevention is there in the marketplace and is
 6 it affecting you?

7 It might not be you. Colleen may be the
 8 better one to answer this, but what's happening on the
 9 front end, anything?

10 MR. MCCULLOCH: You're right. I'm probably
 11 not the best one because we're not involved very much
 12 at all on the front end. You know, we tend to get in
 13 after the case comes in from law enforcement, and, in
 14 fact, in a lot of cases, as Judge Kelly referred to,
 15 there are far more ex-parte orders issued than there
 16 are criminal cases filed. Many times we don't know
 17 that an ex-parte has even been filed.

18 I think Colleen and the other victim
 19 agencies out there and service providers are
 20 probably -- we do what we can to prevent repeats, but
 21 that initial stop, I'm probably not the right guy to
 22 ask.

23 MS. COBLE: There are no state dollars that
 24 fund any prevention programs in the state. Private
 25 foundations and Federal government support it. There

1 is exciting work starting in Missouri and some places,
2 Safe Connections here in St. Louis has done -- has
3 been recognized for a decade or more for their
4 prevention work in schools, but the replication and
5 the moneys to expand isn't there.

6 SENATOR WRIGHT-JONES: Okay. Thank you.

7 ATTORNEY GENERAL KOSTER: Thank you, Bob,
8 very much for your work and dedication.

9 I'd like to ask LIEUTENANT HARPER,
10 Commander of Sex Crimes and Family Violence section of
11 the St. Louis Metropolitan Police Department to come
12 forward.

13 His section participates in DVIP or -- in
14 DVIP, Domestic Violence Intervention Partnership,
15 which has proven to be a successful cooperative effort
16 between advocates and law enforcement to better
17 protect victims in the area.

18 Lieutenant, the floor is yours.

19 TESTIMONY

20 BY LIEUTENANT HARPER:

21 LIEUTENANT HARPER: Well, good morning,
22 Attorney General Koster. Thank you very much for
23 inviting me here this morning, and panel members,
24 legislatures.

25 I'd like to start by apologizing for my

1 gravelly voice. I was rooting for the Cardinals all
2 weekend. I'm paying for it this morning. Please bear
3 with me here.

4 Again, I'm Lieutenant Harper with the
5 St. Louis Metropolitan Police. I'm responsible for
6 our sex crimes, child abuse and domestic violence
7 teams. We have 24 detectives assigned to those teams
8 and three supervisors. We're very proud of our work.

9 In 2009, we initiated over 1,800 cases,
10 which is a sad number. In our domestic abuse response
11 team, it's referred to as DART, we actually have two
12 detectives that focus primarily on stalking and order
13 of protection violations. We look at them primarily
14 for guidance on cases that come to officer's
15 attention. It's an in-house resource. We try to make
16 sure they are well versed on stalking and order of
17 protection and violation laws, and so we have that
18 internally.

19 But what I've been asked to do today,
20 though, is a little different spin than what we would
21 normally be speaking on but is about our work with
22 advocacy agencies. We're proud and fortunate here in
23 St. Louis -- and I think you're hearing that already
24 -- to have so many expert agencies that provide
25 advocacy and information support services to victims.

1 And I tell you, a lot of those agencies are in this
2 room here today, and I consider them such important
3 partners in our work.

4 In St. Louis and in our community, we have
5 a strong and supportive family violence council and,
6 of course, our work with the Missouri Coalition and
7 St. Louis End Violence Against Women Initiative is
8 just ongoing and so important and strong for us,
9 especially for law enforcement.

10 At the St. Louis Police Department, we do
11 have a secret weapon that I'm going to share with you,
12 and that's our Domestic Violence Intervention
13 Partnership. It's a collaboration between the police
14 department and advocates. Actually, some members of
15 your DVIP group are here with us this morning. Again,
16 its Domestic Violence Intervention Partnership, DVIP.

17 This started as a program of the Family
18 Violence Council through the Coordinated Community
19 Response Project back in 1997, and it started as an
20 important need, and it has evolved over the years to
21 just being a critical part of law enforcement response
22 to victims. We have a memorandum of understanding
23 between our department and Legal Advocates For Abused
24 Women, which is the organization that provides the
25 advocates that work in our office at police

1 headquarters. So they work hand in hand with us, they
2 respond with detectives to cases when they can, when
3 they're available. They interact with detectives on
4 case work on the crimes that they're investigating,
5 and also they follow up when officers -- we have a
6 directive that moves officers to contact DVIP around
7 the clock, 24 hours to follow up with victims. It has
8 been from the very start and continues today to be a
9 very effective and important part of our responses, as
10 I mentioned earlier.

11 Some of the advantages of this
12 collaboration are very simple. It really insures that
13 victims are getting the required victim right's
14 information that they need, they're getting safety
15 planning and guidance, and sometimes they're just
16 getting a sympathetic ear and shoulder to lean on
17 during a very dramatic and frightening situation
18 they're involved in.

19 It's important -- an important liaison to
20 us, to the police department, because we know that
21 victims now are getting that help and it frees the
22 officers up to do police work, not to do advocacy
23 work. We go out and prepare the police reports that
24 we mentioned earlier, we go out and search for the
25 perpetrator, we go out and arrest the perpetrator,

1 we're applying warrants to present to Mr. McCulloch's
2 office and prosecuting attorney's offices. So that's
3 what we're doing with the assurance and comfort that
4 the victims also are connected through the advocacy
5 help. It's just a great resource.

6 The advocates help us, not only victims,
7 but they help us with their experience, and actually
8 we go to them sometimes for guidance, what do you
9 think about this or what -- what -- give us an answer
10 on what you think is a better way to handle a
11 particular situation that maybe a victim is in that
12 might not be directly associated with law enforcement
13 but still needs some attention.

14 They're also a great grant partner. We're
15 involved in two grants with their collaboration, and
16 thank you again for that, that partnership.

17 So when it comes to training, we've
18 mentioned training a couple times. Training is so
19 important for law enforcement, and the advocates come
20 and we get a 40-hour block of training in our police
21 academy for the new recruits that come out
22 specifically on domestic violence. And the advocates
23 come in and talk to the recruits and tell them what
24 they have to offer and what they offer victims. It
25 gives them a better understanding. So when I'm

1 contacting them, I know the level of service they're
2 going to get.

3 Last year -- I think it was last year,
4 maybe it was earlier -- no, it was last year. We went
5 through a four-hour training course that was presented
6 by Catherine Vannier that's here with us from the
7 Missouri Office on Prosecution Services. She actually
8 had the opportunity to train most of the police
9 department and it was a domestic violence -- we'll
10 call it a refresher course. We went over laws and
11 procedures and expectations and the advocates were
12 part of that, the circuit attorney's office was part
13 of that, and Kathy Toldnol (phonetic) from our victim
14 services unit at our circuit attorney's office was a
15 very important part of that. And what came out of
16 that was some of the highest comments from
17 participants, from officers, saying how meaningful and
18 how important it was, and that's why we expanded it to
19 the entire department. So training is critical to our
20 response.

21 The advocates also help us seek out
22 additional training, outside training maybe through
23 the coalition or through other areas that offer
24 training, so it's good there.

25 As far as the police department response,

1 we prioritize all of the domestic violence calls, and
2 what that means, no call of a domestic violence nature
3 sits for any period of time. It's always a two-person
4 assignment. So, in other words, we send two officers
5 out on every call because we don't know what those
6 calls are, can entail. And officers are always on
7 high alert because of -- not only the media stigma
8 that it's a dangerous call to respond, we know that
9 from history, too.

10 We encourage all of our officers -- we
11 actually have a pamphlet that I can make available
12 too. It's an information bulletin for crime victims,
13 and it's really a great resource, again, not to
14 overload victims, but during a very traumatic exchange
15 on the scene, some victims don't take it all in and
16 can't take it in all naturally. What's great about
17 this is it provides an area for the officer to leave
18 his or her name, a telephone number, some real
19 important numbers and information on order of
20 protection violations, just in the event they don't
21 get connected to an advocate. Now, we have a protocol
22 in place that directs the officer to do that. We find
23 that helpful.

24 In summary, I can't stress enough the
25 importance of collaborating with advocacy, and

1 especially onsite, I don't think there's a day that
2 goes by that we don't contact Kathleen Hammerhan with
3 our St. Louis Regional Sexual Assault Center. Again,
4 we have a protocol in place that we contact them as
5 early as possible to get them connected to victims in
6 sexual assault cases, domestic violence and sexual
7 assault cases, and we actually bring them in, when
8 it's applicable, into our interview. It just gives
9 that immediate support, and we find that to be very
10 effective and -- we find the same with our DVIP
11 advocates.

12 So if I can just leave you with one
13 important element of law enforcement. It's a
14 different spin from law enforcement, but the
15 importance of our collaboration I can't stress to you
16 enough. If you'll look around this room, you'll see
17 some very beaming faces, because they do a lot of hard
18 work throughout the year, and I consider them not only
19 a collaborator but friends, and I thank them for all
20 the work that they do, too.

21 ATTORNEY GENERAL KOSTER: Thank you very
22 much, Lieutenant. If we could get a hard copy of that
23 document to Joan, and bookmark in the record that
24 seems like a good idea to share with other law
25 enforcement agencies, 750 of them around the state of

<p style="text-align: right;">Page 66</p> <p>1 Missouri.</p> <p>2 Questions? Represent Jill Schupp.</p> <p>3 REPRESENTATIVE SCHUPP: Thank you,</p> <p>4 General Koster.</p> <p>5 Good morning lieutenant.</p> <p>6 LIEUTENANT HARPER: Good morning.</p> <p>7 REPRESENTATIVE SCHUPP: I have a question</p> <p>8 for you -- first of all, I think the advocacy groups</p> <p>9 are wonderful and I think it's great that you put them</p> <p>10 into place and you're working on that community wide.</p> <p>11 I'm hopeful that those kinds of opportunities are</p> <p>12 being broadened state wide, and I'm curious at some</p> <p>13 point to hear how they expand beyond the St. Louis</p> <p>14 area.</p> <p>15 But my real question gets back to just an</p> <p>16 idea of how you measure the success and what you look</p> <p>17 at. Do we know that this is -- do we eventually get</p> <p>18 these women away from staying in a domestic violence</p> <p>19 situation? Are we able to do that, and if we are, how</p> <p>20 do we expand on those strengths that these advocacy</p> <p>21 groups are offering? Thank you.</p> <p>22 LIEUTENANT HARPER: Sure. For follow up,</p> <p>23 when it comes to success, we measure it by calls for</p> <p>24 service. I mean, when victims don't have to call the</p> <p>25 police back, when they don't have to call 911, because</p>	<p style="text-align: right;">Page 68</p> <p>1 Colleen said, at least 40 other states are doing it,</p> <p>2 and it's Federal law, but you know -- the gun rights</p> <p>3 advocates have sort of dominated the discussions in</p> <p>4 Jefferson City, even though there are times when the</p> <p>5 weapons have been turned against the perpetrator, so</p> <p>6 you would think they may not want to be in that</p> <p>7 situation as well.</p> <p>8 But do you have any ideas how to get the</p> <p>9 support necessary in getting that done?</p> <p>10 LIEUTENANT HARPER: Well, practically</p> <p>11 speaking, if a weapon is used in a crime, we're going</p> <p>12 to try and recover that weapon at the scene.</p> <p>13 REPRESENTATIVE BRAY: What if it's not</p> <p>14 used, it's just -- if it's available?</p> <p>15 LIEUTENANT HARPER: If it's locked in a</p> <p>16 cabinet and for the law to be that a perpetrator that</p> <p>17 perpetrates a domestic violence crime by law has all</p> <p>18 of his or her weapons removed, I don't think anybody</p> <p>19 in law enforcement would object to that.</p> <p>20 Applying it to a particular crime, that is</p> <p>21 not a responsibility that we have because it would be</p> <p>22 hard for us to apply a weapon that's unloaded, that's</p> <p>23 locked in the closet, to a particular assault or</p> <p>24 violation of an order of protection. What about all</p> <p>25 the knives in the kitchen drawer and what about if</p>
<p style="text-align: right;">Page 67</p> <p>1 they've been educated on safety planning and on what's</p> <p>2 available to them, order of protection orders, ideas</p> <p>3 and strategies on what they can do to more empower</p> <p>4 themselves not to be victims. And I don't know that</p> <p>5 anyone has ever blamed the victim for being a victim,</p> <p>6 and we don't have a good book that teaches you how to</p> <p>7 be a good victim. And so advocacy, we think, and we</p> <p>8 feel -- and it's not anything new, I call it a secret</p> <p>9 weapon but I don't think it's anything new in law</p> <p>10 enforcement or across the state or the country, but is</p> <p>11 a one positive re-enforcement to victims that will</p> <p>12 hopefully help end the violence. The measurement -- I</p> <p>13 think the simple measurement is they call the police</p> <p>14 again and they don't have to keep coming back and</p> <p>15 going over the same recidivism issues, and I think</p> <p>16 that's one of our better measurements.</p> <p>17 ATTORNEY GENERAL KOSTER: Senator Bray and</p> <p>18 then Representative Jones.</p> <p>19 REPRESENTATIVE BRAY: Lieutenant, thank you</p> <p>20 for coming today.</p> <p>21 LIEUTENANT HARPER: Thank you.</p> <p>22 REPRESENTATIVE BRAY: Do you have any ideas</p> <p>23 that might help the legislature get the provision</p> <p>24 passed that would enable the police officers to remove</p> <p>25 the weapons from a domestic violence scene? Like</p>	<p style="text-align: right;">Page 69</p> <p>1 there's some other type of weaponry or contraband, how</p> <p>2 far do we take that? I think anything that can</p> <p>3 strengthen the safety of victims and officers and</p> <p>4 perpetrators would help law enforcement if we had a</p> <p>5 law that we could apply for that.</p> <p>6 But then once we have a law, it has to be</p> <p>7 applied across the board. We couldn't be selective on</p> <p>8 we're going to take the weapons away from him because</p> <p>9 he called me a name, but we're not going to take it</p> <p>10 away from him because he owns a tavern.</p> <p>11 I would suggest that be well thought out.</p> <p>12 I'm not downing that, I'm just saying it needs some</p> <p>13 thought process to it.</p> <p>14 REPRESENTATIVE BRAY: It's just even though</p> <p>15 the conversation hasn't taken place because of the</p> <p>16 domination of the guns, taking anybody's guns away,</p> <p>17 you just don't know if it's Missouri. That's the</p> <p>18 supreme law.</p> <p>19 LIEUTENANT HARPER: Absolutely.</p> <p>20 SENATOR BRAY: It would be really</p> <p>21 thoughtful, I think, for law enforcement to help even</p> <p>22 in a thoughtful conversation to take place.</p> <p>23 LIEUTENANT HARPER: It would be helpful.</p> <p>24 Yes, it would.</p> <p>25 DEPUTY ATTORNEY GENERAL DANDURAND:</p>

1 Representative Jones.

2 Representative Jones: Thank you.

3 I want to commend you on the success of
4 your program with community partnerships that you have
5 in the domestic violence community.

6 My question is: Have you replicated this
7 training in other police departments in Missouri or
8 have you been contacted to replicate this model in
9 other places?

10 LIEUTENANT HARPER: This model is
11 replicated in other departments in St. Louis -- I
12 mean, in Missouri. We have an awful lot of work that
13 we're doing in St. Louis. It's hard for us to go
14 outside of our confines to share the good news. We're
15 counting on our Missouri Coalition and all of your
16 partners to say -- I believe the Dove Program in
17 Kansas City and Springfield and some of our major
18 cities.

19 Of course, in our smaller communities,
20 their resources are very thin. So in order to have
21 them in-house with law enforcement and go on a 911
22 call is impracticable or may be impossible. We just
23 have the resources available to us with, not only
24 DVIP, but with so many other agencies. You mentioned
25 Safe Connections and Alive and a lot of the -- a lot

1 of the organizations that we work with in St. Louis.

2 I think it would be great. Anybody is
3 welcome to come and see how we operate. I know
4 St. Louis County has a comparable program, and along
5 with some of the Sheriffs and municipalities. The
6 answer would be yes. I do think it would be good
7 business to share what goes on. I'm not saying --
8 it's a very tight knit. We have our issues -- we have
9 our discussions on how things are working and what we
10 find effective.

11 REPRESENTATIVE JONES: Again,
12 congratulations.

13 REPRESENTATIVE ROORDA: Lieutenant, it's
14 heartening to hear the city is taking this issue
15 seriously, establishing a division, not letting those
16 domestic violence calls pend on the dispatcher
17 screens. I started my police career in 1986 as a
18 police dispatcher in St. Louis City, and those --

19 LIEUTENANT HARPER: You know then.

20 REPRESENTATIVE HARPER: Those calls would
21 sit and sit, wasn't taken as seriously back then, and
22 arrests in those situations were exceedingly rare. So
23 it's good see that the one of the largest police
24 departments in the city has taken some leaps forward.

25 I'm a little concerned, though, when you

1 say your benchmark is calls for service. We know the
2 two biggest problem with this issue is underreporting
3 and under prosecution. I guess it's alarming when we
4 hear Prosecutor McCulloch talk about when there's the
5 fact that oodles and oodles of ex-partes and orders of
6 protection that are issued that he doesn't know about,
7 and in those orders, you know, there's allegations of
8 criminal domestic assault that the prosecutors and the
9 police don't know about, and here we hear that you use
10 calls for service as a benchmark. I would sure like
11 to see some other statistical measurements that take
12 into account that there are other things that happen
13 in these situations. The victims stop calling the
14 police because they're frustrated by some step in the
15 process where their plea for help wasn't answered; you
16 provided them with this investigation about seeking
17 orders of protection and now they're going to courts
18 directly and instead of calling the police and those
19 cases are not being prosecuted criminally or not even
20 being brought to the attention of the criminal justice
21 system.

22 And perhaps maybe -- you know we do this
23 with tracking narcotics, instead of basically just on
24 arrests, we also use emergency room reports. A lot of
25 these victims end up in emergency rooms. There's lots

1 of other ways that we can count this. This isn't
2 criticism. This is the way you counted. I know there
3 is a lot of way police departments measure their
4 success. I'd love it if we could see some other ways
5 to measure this and to benchmark our success or
6 failures. Because I don't think saying women aren't
7 picking up the phone or aren't getting on the phone,
8 tells the whole story.

9 And this isn't, again, a criticism of your
10 department, and it sounds like you're doing a great
11 job. Thank you.

12 LIEUTENANT HARPER: And thank you. It's
13 taken well from me. I was very well intended in my
14 response that it's -- it is maybe a confusing
15 benchmark to say -- I'm focused more on recidivism.
16 It is still happening, and one way we know that is by
17 follow-up contact with the advocates. It's part of
18 their -- to call the victim back. Sometimes when
19 officers call or detectives call back -- and you'll
20 know this from your experience -- we get a negative
21 response, hey, stop calling me. When an advocate
22 calls, I'm just checking up, how you doing, do you
23 need anything, we feel that's a measurement of
24 success.

25 REPRESENTATIVE ROORDA: And there's some

1 sharing of that information by you?

2 LIEUTENANT HARPER: Absolutely. With us
3 being in-house, we can share that. If it doesn't
4 breach any confidentiality issue, we can share that.
5 Where the advocate will say, hey, would you try and
6 get in touch with the victim, she's trying to reach
7 out to you, so there is some follow up there.

8 REPRESENTATIVE ROORDA: That communication
9 is very, very important.

10 ATTORNEY GENERAL KOSTER: Senator
11 Wright-Jones.

12 SENATOR WRIGHT-JONES: Yes. Thank you.
13 To somewhat follow up on our original
14 question about prevention, and I'm going to expand
15 that to education and prevention, especially as we
16 discussed recidivism. The perp will continue to do
17 that as long as they can find somebody. We can work
18 on the woman to help her understand what was the
19 environment that brought her to that issue, and I'm
20 rather clueless. I need more information. Is this a
21 generational issue; is it just if you're raised in
22 this type of environment, will you be a victim; is it
23 strictly a personal psychological issue, that's
24 something I need to know for myself. But when Colleen
25 tells us there aren't dollars at the state level for

1 intervention and prevention, that tells me we're not
2 really aware enough to know where we need to intervene
3 from a taxpayer's perspective and make the difference
4 and to continue -- at least try to stop the increase
5 that we're seeing. A lot of that has to do with the
6 economy.

7 And, again, I'm going to ask you do you
8 find that you're seeing more or less of this domestic
9 violence and is intervention helping? Do you need
10 more intervention and education and at what level do
11 you need to start with the young ones? At the age
12 they become -- a female can be abused at any point of
13 time in their life, any child any kid could. Could
14 you kind of speak -- on that for me?

15 LIEUTENANT HARPER: We see domestic
16 violence, at least in our St. Louis area,
17 consistently. We're -- enjoying is not the right word
18 -- but we are experiencing a slight reduction so far
19 this year in domestic violence, but it's hard to say
20 that because any one victim does not want to hear
21 there's a reduction in domestic violence. We look at
22 every case individually. We try our best to be
23 responsive to the victim, and at the same time,
24 holding the perpetrator accountable, getting him or
25 her, bringing them in, presenting the case, the best

1 case we can to the prosecutor.

2 To say we are enjoying a decrease, is not
3 true. We have domestic violence out there. I think
4 our DART unit is at about 600 cases this year, so we
5 had almost 1,100 last year. I don't know what the
6 rest of the year is going to be, but it's very sad.
7 The same with sexual assault and child abuse.

8 We have the same -- so I think consistent
9 is more kind of an appropriate term. We see -- we're
10 trying to provide services to the victims. I think
11 those are positive directions. We're trying real
12 hard. We need our collaboration, and we need you and
13 our legislatures to support us with that, with the
14 right laws. I think we have a lot of great law on the
15 books, but we're looking for your legal leadership
16 also.

17 REPRESENTATIVE JONES: General, let me ask
18 you: Is our domestic violence commission active?

19 ATTORNEY GENERAL KOSTER: Colleen, there is
20 no gubernatorial task force on domestic violence?

21 Representative Margo McNeil.

22 REPRESENTATIVE MCNEIL: Thank you
23 Lieutenant Harper. I do want to say that I'm very
24 pleased that you are partnering with the advocates in
25 the community. I know they really have their pulse on

1 what's happening to our victims of domestic violence.

2 My question goes back to the use of
3 weapons. I was wondering if you have any sense of the
4 percent of cases where you do see a weapon exposed or,
5 you know, some kind of threat of a firearm in the
6 situation?

7 LIEUTENANT HARPER: Uh-huh.

8 REPRESENTATIVE MCNEIL: Do you have any
9 kind of statistics like that?

10 LIEUTENANT HARPER: It's not in all of our
11 cases. Naturally weapons aren't used in all of our
12 domestic violence cases. There are cases -- again, I
13 mentioned and Mr. McCulloch mentioned the case
14 recently, the very high profile case in where one of
15 our area hospitals where were a victim was stabbed.
16 We're also working with a case right now where a
17 victim was stabbed here and she wasn't able to tell us
18 a story. She wrote a 15-page narrative in her
19 hospital bed. So knives are very dangerous and other
20 instruments. We've seen ball bats used as assault
21 weapons.

22 So when we talk about guns, guns are
23 available out there. In law enforcement, sometimes we
24 see the criminals and the elements way overpower us
25 with guns. We have our weaponry and we're good at it.

1 We know how to shoot, when to shoot and we practice
2 that repeatedly throughout the year.

3 On the other hand, they have guns, and they
4 don't practice as much as we do, and they're not as
5 governed and selective, so we are also cautious about
6 weapons.

7 I'm not trying to go around your question
8 because I don't really -- there hasn't been a
9 preponderance of cases where a firearm was used in
10 domestic violence. Many of our cases are physical
11 violence or domestic assault first, domestic assault
12 second that we see in our unit.

13 REPRESENTATIVE MCNEIL: I was trying to get
14 an idea of, in removing firearms from the homes of
15 domestic violence perpetrators, you know, if you had
16 any statistics on what's happening -- what we're
17 talking about here, what percentage?

18 LIEUTENANT HARPER: Sure. It would be
19 unfair for me to give you a percentage or a number.
20 It's a low percentage. I could get that information,
21 at least from our department, and see how many guns
22 were used in a particular assault, domestic assaults.
23 I think if there were parameters -- if there was some
24 prior use of a weapon in a crime, especially in a
25 domestic violence crime that could move that forward.

1 There's already been something
2 demonstrated, that use of a weapon has been
3 demonstrated, and so that there could be -- maybe
4 important parameters that could be looked at.

5 REPRESENTATIVE MCNEIL: Thank you.

6 ATTORNEY GENERAL KOSTER: Thank you very
7 much for your service and testimony this morning.

8 I think I would like to ask Carol Cromer to
9 come forward next.

10 In reviewing domestic violence laws, we
11 should all be guided by one common goal, that is
12 protect its victims who struggle to survive and it
13 pervades every aspect of their lives every single day.
14 Carol Cromer is such a survivor with a powerful and
15 very personal story to share. We appreciate your
16 willingness to come forward and talk with us about the
17 traumatic events you've experienced in your life. Her
18 story is a reminder that too many times the violence
19 only ends when someone dies.

20 TESTIMONY

21 BY CAROL CROMER:

22 MS. CROMER: Thank you. My name is Carol
23 Cromer and I am from St. Charles, Missouri.

24 When I first met my husband, he appeared as
25 very kind, charming and a well-respected man within

1 the community. He worked as an arson investigator,
2 ATF, with the St. Louis County Police Department Bomb
3 and Arson Unit. He also carried a second job as an
4 electrician.

5 We were married in 2002. It was the second
6 marriage for both of us. We had no children together.
7 Following our wedding, he began almost immediately
8 showing signs of controlling and obsessive behavior.
9 It worsened with time. I was unable to do anything
10 without his knowledge and approval. He questioned my
11 every move. He had investigators follow me for over
12 one year. He called repeatedly and would go through
13 the trash, my phone records and my car. He took my
14 phone away.

15 I found out that he was lying, and that he
16 was not a Marine in the Armed Forces, as he previously
17 claimed, nor was he a prisoner of war. I was lead to
18 believe he was a police officer. He did carry a
19 badge, but he was, in fact, a civilian that worked for
20 the police department. His stories were quite
21 elaborate.

22 Domestic violence is not limited to
23 physical abuse. He never physically harmed me. His
24 pets took the physical abuse when he was angry. For
25 me, it was emotional abuse, mind games and threats

1 with guns.

2 Due to his affiliation with the police
3 department, I felt unsafe talking to anyone in regard
4 to my concerns. I was desperate. I just knew that I
5 needed to get out and that I needed to do it
6 carefully. I was finding out the truth, that my
7 husband was not the person he claimed to be.

8 After finding out about his multiple
9 affairs, I temporarily moved into my daughter's home.
10 His behavior became more threatening. He began
11 stalking me. I told him I wanted a divorce and
12 stopped answering his calls. His behavior escalated.

13 I filed for an order of protection. Four
14 days later he became a danger to my children. At
15 approximately 3:00 a.m., my daughter's car caught fire
16 in front of her apartment. It was a total loss. The
17 origin was undetermined, possibly electrical. This
18 occurred in my husband's district and area of
19 expertise. His department was informed of our
20 concerns. Later that morning, my husband showed up at
21 my work and dropped off an envelope that said rethink
22 this.

23 I called the police to make a report. It
24 had been six days since filing for the order of
25 protection but m my his had still not yet been served.

1 The police officer made contact with him in the
2 parking lot and proceeded to serve him. Exactly two
3 weeks later, again, at approximately 3:00 a.m., my
4 son's car exploded and burned in his driveway, along
5 with my daughter's second car, which was also in the
6 driveway at the time. My son was asleep in the house
7 and did not hear here the explosion. The fire was so
8 hot it had moved to the house, and if not for the
9 quick response of the neighbor and the local fire
10 department, this could have easily become a fatal
11 consequence. Once, again, this occurred in my
12 husband's district and area of expertise.

13 I begged that they keep the information --
14 I'm sorry. His police department was again contacted
15 with our concerns. Later that morning, I contacted
16 internal affairs. I begged that they keep the
17 information we discussed confidential. They talked to
18 him about what was going on. He explained that he had
19 nothing to do with it. They did bring in an
20 independent investigator to review the two fires.
21 Both undetermined, possibly electrical, with nothing
22 more they could do.

23 Over the next three weeks, he continuously
24 began showing up in the parking lot at my work. I
25 contacted internal affairs two more times. I made at

1 least six reports of the violation of the ex-parte. I
2 was unable to get the actual order of protection
3 because every time the hearing was scheduled, he used
4 the system to have it continued. He knew the system
5 better than most. Getting the full order of
6 protection actually took over one year to accomplish.

7 One evening I went to the gym after work.
8 As I walked to my car to leave, I saw my husband
9 sitting in his car watching me. I quickly jumped into
10 my car and drove to the nearest police department. A
11 report was made. My husband denied being there.
12 Later I received a startling phone call blaming me for
13 all the events that had previously happened to my son
14 and daughter. I took my phone to the police and made
15 another report.

16 Later that same evening, I was informed by
17 my husband's son -- I'm sorry -- I contacted my
18 husband's son and explained my concerns of his
19 increasingly strange behavior. Later that same
20 evening, I was informed by my husband's son and by
21 friends of my husband in the police department that
22 his intentions that night was to kill me and then to
23 kill himself.

24 He had meticulously laid out instructions
25 for his son as well as clothing for the funeral. A

1 couple of days later mail began showing up at several
2 of my family members' homes describing why he had to
3 do what he did, and at this time, they were all to
4 blame. Imagine how my children must have felt reading
5 those letters after knowing what his intentions have
6 been?

7 He was admitted that night to a hospital
8 psychiatric unit. He was evaluated for one week,
9 given medication and released. Throughout the next
10 couple of months things were fairly quiet. We were
11 beginning to hope that maybe he had moved on, as we
12 were so desperately trying to.

13 October was coming up quickly and it was
14 going to be a busy month. I was in the process of the
15 fun of helping one daughter plan her wedding and
16 looking forward to the birth of my other daughter's
17 third child, too, do around the same time. The fun
18 was overshadowed by occasional, unexplained hang up
19 phone calls that would come in through the night.
20 Nevertheless, I was determined to make this a
21 beautiful event.

22 He continued to drive through the parking
23 lot where I worked day after day. He took things out
24 of my car. Reports were made. When confronted, he
25 denied being there. I was becoming more and more

1 desperate. He knew just what to do.

2 We need some kind of proof he is lying I
3 was am told by the police. I was finally able to get
4 that proof. My girlfriend's husband actually came to
5 my office and sat at the window all day waiting just
6 to get him on videotape, and he did. Another report
7 was made, and, once again, he lied about his
8 whereabouts, but this time I had the proof.

9 Two days later, my daughter woke up to a
10 threatening note that had been left on the windshield
11 of her car. I think you can imagine with her upcoming
12 wedding only weeks away the fear she experienced as
13 she read the note. I did not get my invitation, it
14 read, but I'll be there. It will be a blast. Again,
15 a police report was made. Three days later the
16 St. Charles Police Department arrested him on charges
17 of stalking with a bond set at \$1,000, a misdemeanor.
18 He was out on bail within hours. Now, we are more
19 afraid than any other.

20 One and a half weeks later around 1:00, my
21 daughter had been having false labor contractions and
22 had moved to the couch trying to get comfortable. She
23 had finally managed to fall asleep when she awoke to
24 an explosion and fireball outside her window on the
25 back deck. A pipe bomb had gone off setting the deck

1 and back of the house on fire. My two grandchildren,
2 ages, two and 14 months, were asleep only feet away.

3 Once again, the serious nature of these
4 incidences could have had a more fatal outcome for my
5 children and grandchildren. Later that day, during
6 the investigation at my daughter's house, I received a
7 call that my home was now on fire. The losses were
8 now reaching hundreds of thousands of dollars. He was
9 totally out of control.

10 He was brought in for questioning. When he
11 arrived, he had a gun in his car. Due to the fact
12 that I was still not able to get the full order of
13 protection, no violation had been made. He requested
14 a lawyer and no further questioning was allowed. He
15 was, however, taken in for the second time to the
16 psychiatric unit for evaluation. He was held three
17 days, given a new prescription of medication, and,
18 once again, released.

19 Both fires were determined arson, but I'm
20 told there was no way to prove this to be the work of
21 my husband at the time. The fact that he drives
22 around with accelerants in his car is just part of his
23 job and proving anything would be difficult.
24 Circumstantial evidence is all we have. I'm told a
25 picture of him in the act would help.

1 Three car fires, two house fires, a
2 threatening note, a written letter of his attempt kill
3 me and himself and there is nothing we can do. We do
4 not know how much longer we can remain safe. We are
5 just thankful we are all okay.

6 We soon realized that we all had to leave
7 our jobs and our children had to leave their schools.
8 We feared what was yet to come. The stress my
9 daughter was put under also put her unborn baby at
10 risk and arrangements had to be made to take the child
11 early. With protection prearranged at the hospital
12 and the other children placed in undisclosed locations
13 until the baby could be delivered, we managed to get
14 this accomplished. The pain I felt watching my
15 children be separated from their children in order to
16 keep them safe during this time was gut wrenching.

17 The next day, after the birth of my newest
18 grandchild, and just one and a half weeks to my other
19 daughter's wedding, by husband was once again arrested
20 for the second time by the St. Charles Police
21 Department. This time for aggravated stalking. A
22 \$10,000 bond was set. He posted bail on his credit
23 card, and, again, was out within hours.

24 We now had to take careful consideration in
25 events leading up to the wedding. The bridal shower

1 was cancelled. The rehearsal and wedding itself was
2 seriously becoming more and more jeopardized. People
3 were scared. We could not put anyone else at risk.
4 Once again, a cloud of sadness took over what should
5 have been a very happy and momentous occasion. Due to
6 the extreme measures of precaution taken by the
7 St. Charles and St. Peters Police Department, we were
8 able to keep the rehearsal and wedding on as
9 scheduled. To them, we are extremely thankful.

10 Two days later, and just one day before my
11 daughter's wedding, my husband was arrested for the
12 third time by the St. Charles Police Department, this
13 time on charge of theft, a felony. During the
14 investigation of the fire at my home, they uncovered
15 some of the things I previously reported stolen out of
16 my car. This time a \$200,000 cash-only bond was set.
17 Something had finally been done to give us a chance,
18 even if only temporarily, to being victimized by this
19 individual. My husband was unable to post bond this
20 time.

21 The wedding turned out to be a beautiful
22 celebration; although, the thought still lingered as
23 to how much time we had until he would be back on the
24 street again. He was held for one year during which a
25 third mental evaluation was done. Our divorce became

1 finalized.

2 Fortunately, I was referred to the Safe At
3 Home Program for help in protecting my personal
4 information. I changed and protected information on
5 my name, my home and my car. I left my job of 20
6 years and all the benefits I had accrued to make life
7 safer in the future. I started over with nothing. It
8 was difficult, but it gave me a chance once again.

9 My ex continued to try and get his bond
10 reduced. My family and I pleaded at each and every
11 hearing. I thank God for those judges who listened
12 intently and gave careful consideration on each issue.

13 Prior to trial, my ex had the chance to
14 plead out. The time he had awaited trial became time
15 served. He was released. A supervised probation was
16 set. I was afraid once again.

17 The terrifying letters of revenge and the
18 heartless attacks on my family remained fresh in my
19 mind. My ex-husband did not move on with his life.
20 His behavior over the next year included countless
21 attempts to take our previously settled divorce back
22 to court.

23 If it had not been for all the help the
24 Safe At Home Program had provided at that time, I am
25 sure that I would not be here today to speak to you.

1 They accepted a summons on my behalf and managed to
2 keep my personal information confidential.

3 Just six weeks ago, my brother was standing
4 in his kitchen around 9:00 p.m. when someone came up
5 the driveway and fired six shots at him through the
6 window. Thank God he was only cut due to the flying
7 glass. My brother managed to chase after him getting
8 the license plate. He contacted the Ellisville police
9 to make a report and then contacted me to inform me of
10 the need to get my family to safety before he reaches
11 someone else.

12 Once again, we are pulling the children
13 from their beds and running and hiding. The next day
14 I pleaded with the police department. I explained
15 this was not an isolated incident. I pleaded that
16 they do not put this aside because someone else could
17 be next. They followed through with an urgency in an
18 investigation and found there was, in fact, a link
19 between the car and my ex-husband. We were now
20 looking at possible assault charges; although, to me,
21 it sounded more like attempted murder.

22 Five weeks ago, the investigator made
23 contact with my ex-husband, and he agreed to come in
24 for questioning with his lawyer that very day. His
25 cooperation concerned me. His past behavior told us

1 that it could be dangerous if we didn't stay hidden
2 for now. My ex-husband never showed up.

3 On August 5, 2010, just five weeks ago,
4 police were sent to his home to look for him. They
5 found him. He had committed suicide.

6 For hours I was numb. Then emotions slowly
7 began to surface. Could this nightmare finally be
8 over. I truly felt sadness for his family and what
9 they were left to feel. However, for the first time
10 in five years, I felt relief.

11 Thank God my family is finally safe is all
12 I can think. It's been five long years of living in
13 fear. It has consumed my life so long that I am
14 unsure what it will be like to live life normal again.
15 I opened my windows last week for the first time in
16 years. My grandchildren spent the night.

17 This is merely a small portion of my story.
18 During the past five years, my ex-husband's behavior
19 resulted in multiple reports that involved various
20 departments which included St. Louis County,
21 Hazelwood, Maryland Heights, Creve Coeur, Ellisville
22 Miller County, Camden County, St. Charles City,
23 St. Charles County and St. Peters. I am truly
24 grateful to the St. Charles Police Department and the
25 St. Charles prosecuting department for their

1 expertise, hard work, determination and support in
2 this matter. They truly understood the serious danger
3 associated with these individuals and took every
4 precaution as they worked diligently to try and seek
5 justice in a limited court system.

6 I have come to realize that not all law
7 enforcement have been as educated in this area and do
8 not fully understand the potential dangers involved
9 when handling these vicious attacks and
10 life-threatening matters. I have experienced the need
11 for better laws which draw the consequences to better
12 protect those being victimized in the future.

13 I feel orders of protection especially need
14 serious review. Each time my husband was arrested and
15 released, the violence got worse. Allowing him to
16 repeatedly bond out did not stop his destructive
17 behavior. It only allowed him to continue down a much
18 more destructive path. These individuals are
19 incapable of changing their behavior. They do not
20 value their own lives. Therefore, expecting them to
21 comply with rules and suddenly value someone else's
22 life is incomprehensible and ignores the possibility
23 of a potentially fatal outcome.

24 I come before you today because I made it.
25 Just four short weeks ago, I would have had to say no

1 to telling my story. The concerns for my family's
2 safety were far too important to put them at risk.
3 However, I will never forget what my family and I had
4 to go through in an attempt to try and get justice in
5 this matter. My family and dear friends were my
6 support. Whenever I wanted to quit out of fear for
7 their safety, they unselfishly reminded me of all the
8 other children that have been displaced in protective
9 shelters because of someone threatening in their
10 lives.

11 There are so many others living just like
12 me out there right now who cannot come forward to tell
13 their story out of fear of what might happen, not just
14 to them, but more, importantly, to their children. No
15 one deserves to live like this. Children especially
16 do not deserve to live like this.

17 During my time spent in shelters, I was
18 able to meet the faces of real people and real
19 children who are still currently waiting for help.
20 Some have been murdered. Others are still waiting,
21 hoping they get the chance to someday tell their
22 story. Please help me to look into these children's
23 eyes and reassure them that help is on the way. That
24 one day they, too, will be able to stop running and
25 hiding, and that they will be able to go back to their

1 homes, their friends, their schools and their jobs.
 2 That they will be able to lay down in their beds at
 3 night feeling safe and protected, and that they will
 4 no longer have to be victimized and feel threatened in
 5 their own homes.

6 Thank you for this opportunity.

7 ATTORNEY GENERAL KOSTER: Thank you, Carol,
 8 for sharing such a powerful and personal story.

9 The materials that were handed out to the
 10 panel members indicate that the story you told is a
 11 story that some 50,000 woman in the state of Missouri
 12 in 2009 reached out for help for along some lines, not
 13 all as traumatic as yours, but all of them in
 14 desperate need for help. 25,000 of those, half of the
 15 50,000, were in situations serious enough to seek
 16 overnight shelter. Only 40% of those were assisted
 17 with overnight shelter because the shelters were full.

18 Questions for Carol. Representative
 19 Roorda.

20 REPRESENTATIVE ROORDA: Carol, thank you so
 21 much for your bravery. It sounds like you were
 22 married to a coward, and your bravery is inspiring to
 23 all of us.

24 I'm embarrassed to be a law enforcement
 25 officer in a state where this sort of torment and

1 violence would be allowed to proceed.

2 Let me ask you: I'm the ranking member of
 3 the crime committee in the House and criminal law
 4 committee that would like to hear legislation that
 5 would address domestic violence. If we would put
 6 together a bill as a result of this panel, would you
 7 be willing to come and share your story with the
 8 entire crime committee in Jefferson City?

9 MS. CROMER: I absolutely would.

10 REPRESENTATIVE ROORDA: I look forward to
 11 working with you and working with the other members of
 12 the panel to move something forward. There's a lot of
 13 good ideas we're going to hear as an outcome of
 14 today's task force. I would like to see some of those
 15 put in action.

16 MS. CROMER: Thank you for doing what you
 17 are to try and help us. It's a serious situation.

18 REPRESENTATIVE ROORDA: It is. Thank you.

19 ATTORNEY GENERAL KOSTER: Thank you very
 20 much for your testimony.

21 Next I would ask Ellen Reed to come
 22 forward. Ellen Reed has a master's in public policies
 23 and administration and is the executive director of
 24 Lydia's House, which has provided transitional house
 25 to since survivors of domestic violence since 1995.

1 She also serves as the chair of the advocacy committee
 2 of the anti-violence advisory project of ALIVE,
 3 Alternatives to Living in Violent Environments,
 4 serving the lesbian, gay, bisexual and transgender
 5 victims and survivors of violence within the St. Louis
 6 metropolitan area. It is one of the very few areas of
 7 state law that does cover the LBGT community and we
 8 appreciate your willingness to come and share your
 9 professional experience.

10 TESTIMONY

11 BY ELLEN REED:

12 MS. REED: Thank you so much for having me.

13 As you indicated, I do wear multiple hats.

14 I do want to just say quickly, my day job, my paying
 15 job, is as the executive director of Lydia's House,
 16 which provides transitional housing to battered and
 17 abused women and their children, and we are the
 18 largest in the state and we are one of very few such
 19 programs. So we are very well informed of the needs
 20 of woman in Carol's situation. Powerful explanation
 21 of the reality of this work.

22 In my volunteer life, I do chair this
 23 committee for the Anti-Violence Advocacy Project which
 24 is now situated under ALIVE, which is another critical
 25 domestic violence advocacy program in the St. Louis

1 area.

2 Ricky and Sherrie have lived together for
 3 nearly three years, but it is dangerous. Sherrie has
 4 always been controlling and sometimes she is down
 5 right abusive towards Ricky, especially around money.
 6 Ricky has to live on an allowance because Sherrie
 7 insists she is better at handling money.

8 For the past year and a half, Sherrie has
 9 gotten violent with greater frequency and greater
 10 force. In fact, just last week, Sherrie nailed Ricky
 11 in the ribs with a golf club, but Ricky didn't go to
 12 the emergency room. Ricky didn't go to the doctor to
 13 check for fractured ribs, and, certainly, Ricky will
 14 not call the police. Ricky worries that reaching out
 15 for help will expose her as a lesbian.

16 She is a woman living with another woman
 17 who is violent. Ricky is the larger of the two woman
 18 and she is considered to be more "butch" than other
 19 woman, and she believes that because of these visible
 20 qualities, she will not be believed as being the
 21 victim in the situation.

22 But Ricky has not come out to anybody.
 23 She's not come out to her family, and she's not come
 24 out to her church family because she's afraid. Only
 25 her closest friends know she is a lesbian. Ricky

1 works for church day care, and, although, it doesn't
2 pay much, she loves her job and it's her only income.

3 For the entire time they have been
4 together, Sherrie has threatened Ricky with full
5 exposure in a very ugly way should she ever chose to
6 leave. Ricky doesn't know where to go for help. What
7 Ricky does know is that in the state of Missouri her
8 relationship is so troubling to others that the media
9 often covers politicians, faith leaders and ordinary
10 citizens speaking out against homosexuality.

11 Her best friend, a gay male, was beaten on
12 the street by men who were calling him
13 gay-bashing-type names, but the police didn't help.
14 In fact, nobody helped. And like so many other gay,
15 lesbian, bi or transsexual people, she believes that
16 the police won't help her be safe from her own
17 partner, or even worse, that the simple act of
18 reporting might result in an attack.

19 So Ricky is afraid at home, she's afraid to
20 call for help, so she stays.

21 Ricky's situation is really not that
22 different on some levels than victims of mixed gender
23 domestic violence victims. The reality is it's about
24 power and control. It's about who has greater access
25 to resources and who has the greater ability to

1 control somebody else's access to those resources.
2 The reality is that in same sex or same gender or
3 non-gender-conforming relationships, domestic violence
4 or intimate-partner violence occurs in about the same
5 frequency as it does in mixed-gender, mixed-sex
6 relationships.

7 The reality is that it can be as fatal as
8 in any other type of relationship, and the reality is
9 that it is painful. It's physically painful. It's
10 emotionally painful. It's destructive, and it's very
11 dangerous.

12 Another reality is that children are likely
13 to be involved, especially, when two woman are in the
14 relationship. We can't ignore the reality that
15 children in those relationships are also witnessing or
16 being impacted by domestic violence.

17 Another reality is the impact of domestic
18 violence or intimate-partner violence on same-sex,
19 same-gender-relationship victims is that it disrupts
20 the ability of the victim to thrive and to be a
21 successful, contributing member of the community.

22 The reality is that the economic impact is
23 immense due to the lost time and productivity in the
24 workplace. But unlike mixed-gender relationships,
25 same-sex or same-gender relationships bring an

1 entirely different level of barriers and
2 complications. It is much easier to control those who
3 are invisible or those who are abused by the broader
4 culture. Simple exposure for many couples is a daily
5 threat that underscores or drives home the control
6 that one person can take over another. It is also
7 much easier to exert power and control when there's
8 limited access to help and resources, such as law
9 enforcement and the court system. When one person is
10 afraid that by accessing help and resources it may
11 greatly endanger her or him, it limits the access and
12 it increases the ability of one person to control or
13 abuse or be violent against somebody else.

14 If a larger culture denies the value of a
15 relationship, the couple often lives in complete
16 isolation from the support network found in healthy
17 communities and in healthy relationships.

18 Excuse me.

19 So quickly, a few recommendations coming
20 from the LGBT community would be, No. 1, remove all
21 legally sanctioned discrimination against same-sex,
22 same-gender and increase protections as a highly
23 endangered group of people who do suffer from physical
24 assaults and other types of discrimination, including
25 sexual orientation gender identity as a protected

1 group at every level; require training of personnel at
2 every level of the criminal and civil court systems on
3 all aspects of family law and the complications of
4 domestic violence and how LGBT couples and their
5 families are part of a family law system; equalize
6 access to helping resources by insuring there is
7 adequate funding for shelter beds in -- and in the
8 St. Louis region we are poorly, poorly resourced. We
9 are far more underserved with shelter beds than the
10 Kansas City area and our turn-away rate is much
11 higher. So shelter beds, which do not include
12 sheltering males. So we also ask for funding -- for
13 increased funding and adequate funding for hotel
14 placement which does provide resources -- emergency
15 resources for male victims who are typically victims
16 of other men or transgendered individuals, and there
17 is one such program that we rely on which is now alive
18 in the St. Louis region, and transitional housing for
19 victims whose lives that have been completely and
20 totally shattered or whose safety issues are so
21 extreme that there is nowhere else to go for two years
22 other than transitional housing.

23 Also another recommendation is to support
24 funding for regional anti-violence projects. The
25 Anti-Violence Advocacy Project of ALIVE, that is a

1 type of project that is LGBT specific to work on
 2 intimate-partner and hate crimes. There are only two
 3 such projects in the state of Missouri, neither of
 4 which have much government funding. I don't know what
 5 Kansas City has, but St. Louis has none. It has been
 6 an entirely volunteer-driven program, but these are
 7 part of a national coalition of anti-violence
 8 projects. So the vast -- that majority of the state
 9 has no resources for somebody who identifies somewhere
 10 along the LGBT spectrum, so insuring that the state is
 11 somehow covered with anti-violence projects.

12 And to ensure there are dedicated advocates
 13 in our DV programs to provide both individual and
 14 institutional advocacy on behalf of LGBT citizens
 15 throughout the state.

16 Another recommendation is to insure
 17 hotlines are available throughout the state so that
 18 victims can report anonymously, which is a critical
 19 component of safety of any victim of violence.

20 Support anti-violence projects as the data
 21 collectors for LGBT intimate-partner violence and hate
 22 crimes. This is a critical component. The National
 23 Coalition of Anti-Violence Project puts together --
 24 they hold the national statistics but there isn't
 25 funding in Missouri to get -- to have those people in

1 place to get those statistics to that national
 2 coalition.

3 And, finally, to hold open a seat on the
 4 Attorney General's task force on domestic violence for
 5 an LGBT advocate associated with an anti-violence
 6 program.

7 ATTORNEY GENERAL KOSTER: Let me -- on the
 8 last point, let me extend the invitation to you right
 9 now. You are welcome to sit here with us on the panel
 10 when we -- pull up a chair and sit with us right now
 11 if you like, and you are welcome to join us in Kansas
 12 City later this month.

13 MS. REED: Thank you very much.

14 ATTORNEY GENERAL KOSTER: Do you interface
 15 with law enforcement on a regular basis with respect
 16 to LGBT issues and domestic violence, and, if so, how
 17 do you find that interaction, are you pleased with it,
 18 are you frustrated with or something in between?

19 MS. REED: Personally, I have been in and
 20 out on doing work with law enforcement. Currently
 21 with my day job, my paying job, being executive
 22 director of Lydia's House, I am not doing that piece
 23 of it. ALIVE will be taking that piece on, but I have
 24 many years experience of having done so in various --
 25 I'm actually from the Hannibal/Quincy area and worked

1 as the executive director of a domestic violence
 2 program there, so I have interacted with many levels,
 3 from extremely rural half-time departments to the very
 4 professional St. Louis City Police Department and it
 5 is as varied as there are departments as there are
 6 people. Attitudes can be anything from a St. Louis
 7 City Police Department that has an LGBT liaison on
 8 staff to departments who are as abusive to somebody
 9 trying to report as is the abuser, and we certainly
 10 have got the documentation of those.

11 ATTORNEY GENERAL KOSTER: Very good.

12 For the record, the Attorney General's
 13 office has an LGBT liaison and has since January of
 14 2009.

15 MS. REED: Yes.

16 ATTORNEY GENERAL KOSTER: Questions for
 17 Ellen.

18 Thank you very much. I hope you take us up
 19 on your invitation.

20 MS. REED: Certainly. Thank you very much.

21 ATTORNEY GENERAL KOSTER: Our next speaker
 22 is Tara Boyer, who is unit supervisor for the Missouri
 23 Board of Probation and Parole, District 17 in
 24 St. Charles, and with the Department of Corrections
 25 she is also the chair of probation's ongoing

1 state-wide domestic violence task force, which was
 2 formed in April of this year.

3 Tara, welcome. The floor is yours.

4 TESTIMONY

5 BY TARA BOYER:

6 MS. BOYER: Thank you very much. Thank you
 7 Attorney General Koster and the panel for the
 8 invitation. And I want to say thank you to Carol for
 9 sharing her story. She's from my area so it's great
 10 to here that our police department has stepped up and
 11 I appreciate that.

12 As the attorney general indicated, I am a
 13 unit supervisor with the Missouri Board of Probation
 14 and Parole. I'm also the current chair of the
 15 state-wide Domestic Violence Task Force. In addition
 16 to that, I have been actively involved in both the
 17 family violence councils in St. Charles County and
 18 Lincoln County where I previously worked. I am a new
 19 staff trainer for domestic and family violence at our
 20 new staff training. I have also been a former
 21 facilitator for the impact of crime on victims classes
 22 with probation and parole.

23 Domestic violence cases represent some of
 24 the most difficult cases that we as probation and
 25 parole officers supervise, and the main reason is

1 because we end up with the victims calling and they
2 don't generally understand what we are capable of
3 doing, as do a lot of folks. We are kind of the half
4 law enforcement, half social work, half victim
5 advocate. We have a very strange place in the
6 criminal justice system.

7 We get phone from victims that start off,
8 whatever you do, don't tell him I called, and that
9 makes things very difficult because as a probation and
10 parole officer, we are only able to write violations
11 if we have some sort of proof. Now, what I tell my
12 officers all the time is you get creative. If they're
13 saying he's using drugs, you bring him in for a drug
14 test, and then we get working with programming. And I
15 have told them before, I see your name was ran. And
16 they're like what for. I don't know. I just got your
17 name was ran. What happened at 2:00 in the morning.
18 And you try to get them to start talking. And you
19 work with a client and you keep an eye on them and you
20 look for what changes are occurring in their
21 personality throughout the time that you're
22 supervising.

23 However, domestic violence perpetrators are
24 also some of the quote, unquote, kind of slickest,
25 kind of the most manipulative, and they have a

1 tendency to show very well to probation and parole,
2 and that's the difficulty that we run into. What I
3 tell people, my officers, is it means you have to work
4 a little bit harder and have to try and keep plugging
5 through.

6 I'm not sure how familiar everyone is with
7 probation and parole. All clients that are placed on
8 supervision have to abide by ten set conditions, and I
9 did bring -- if anyone is familiar with this, this is
10 our rules that we have that govern probation and --
11 probation and parole. It's the booklet that we give
12 to clients when they're placed on supervision and that
13 go through our intake program, so I did bring copies
14 for everyone. It's also available on our website, the
15 Department of Corrections website, along with some
16 other really great information if you ever wanted to
17 know anything about probation and parole.

18 These conditions include laws, which means
19 they have to obey all the laws that they're currently
20 set for, travel -- we'll go over these briefly --
21 residency, employment, associates, drugs, weapons,
22 reporting directives, supervision strategies and
23 payment of intervention fees. Additionally, we have
24 the catch-all special conditions that are conditions
25 that are specifically set by judges or the parole

1 board when a client is released on probation or set on
2 parole. This is where supervision gets tailored
3 specifically to the events, and this is where a judge
4 or a parole board can make a recommendation for a
5 batterers' intervention program, a no-contact
6 restriction, where they're not able to contact the
7 victim, or what we do see often is no unlawful-contact
8 restrictions, which indicates that the victim has,
9 through the process, indicated they want to continue
10 to have contact with the perpetrator, but what we're
11 saying is if the police are called, if we get any
12 reports, then we have something that we can act on.
13 So it kind of gives the victim that autonomy at that
14 point. And also residency restrictions, you cannot
15 live with the person or you can live with this person.

16 When a client violates supervision, the
17 violation is documented in a violation report or a
18 notice of citation, depending on the type of
19 violation. Any law violation, drug violation, weapons
20 violation or special conditions has to be documented
21 in a violation report. Those are our mandatory
22 violations and they have to be written up if we find
23 out about them. At that point in time, the officer
24 and client create an action plan, and we can work with
25 the client to address behaviors, such as placing them

1 in drug or alcohol treatment, or we can increase
2 batterers' intervention program, or place them on
3 electronic monitoring or transdermal alcohol
4 monitoring or GPS monitoring. We have a lot of things
5 we can use to work with your clients if we believe
6 that's in their best interest. However, if it is a
7 serious safety issue, we can go to the courts and ask
8 for revocation at that point, in which case the judge
9 then makes the determination.

10 As previously indicated, the probation and
11 parole department has convened a state-wide domestic
12 violence task force. It actually began in late 2008.
13 The board of probation and parole at the urging of
14 some officers that had gone to a coordinated community
15 response training in Duluth, Minnesota formed this
16 task force to examine how we as a department address
17 domestic violence. Due to some internal changes that
18 we were having within our department, there was a
19 moratorium placed on all committee work and we did not
20 officially meet until April of 2010.

21 The purpose of the committee is to develop
22 a systematic and unified response to domestic violence
23 by the probation and parole staff. Presently
24 probation and parole falls into six geographic
25 regions. We have a representative -- at least one

1 from each region. We also have been joined by two
2 members of the Missouri Coalition of Domestic and
3 Sexual Violence, Emily van Shankauf and
4 Cheryl Robb-Welch and we've recently been joined by
5 Catherine Vannier with MOPS, Missouri Office of
6 Prosecution Services.

7 We are still doing our work now, so I can't
8 really make any actual recommendations. We're kind of
9 where you guys are with collecting our data and making
10 our recommendations to our higher-ups. But what we
11 have identified as our goals is improving our
12 relationships with our community partners, training
13 for all partners, ourselves included, because we have
14 found out that we, as probation and parole officers,
15 need to step up our game with knowing what's going on
16 with domestic violence.

17 And while it's different maybe for police
18 officers or prosecutors where you can kind of funnel
19 the case into this is a domestic violence case, give
20 it to a domestic violence detective or give it to a
21 prosecutor, what we find is that anyone can be on
22 supervision for any number of offenses and be a
23 perpetrator or a victim, so we want to have all our
24 offices with at least basic knowledge regarding
25 domestic violence.

1 We're also looking at potentially
2 standardizing practices and conditions for domestic
3 violence supervision, whereas a person on supervision
4 in St. Louis will have the same set of standards for
5 completing that supervision as someone in, you know, a
6 small town like New London, Missouri. Okay. Where a
7 big problem that we run into is lack of resources
8 between those two areas. Because you can only make
9 recommendations and judges will only add special
10 conditions if they are able to actually do them. We
11 can't recommend batterers' intervention programs for a
12 client if there's no batterers' intervention programs
13 in the area.

14 And also standardizing the institutional
15 response to domestic violence. We do find out that
16 domestic violence does not stop merely because a
17 client is incarcerated. We do have people that abuse
18 from the jails and people that abuse from the prisons,
19 and trying to look at what we can do as a community
20 and a state to stop those things from happening.

21 Through our work, we've identified a need
22 to increase our collaboration with community partners.
23 In some regions of the state we are very proficient at
24 this. We have lots of areas that have domestic
25 violence courts, that have domestic violence case

1 loads, and then we have others that don't even --
2 don't even have shelters in their area or speak to
3 their prosecutors and we need to add to that
4 collaboration. Especially with budgetary constraints
5 right now, duplication of efforts is something we need
6 to kind of stream line a little bit better and really
7 getting to the point where you -- if you're doing
8 this, just fill me in on what's going on, and we can
9 all come to the table and discuss this client.

10 We have identified the following partners
11 as beneficial to community supervision, victim service
12 providers, including shelters, prosecutors, batterers'
13 intervention programs and law enforcement. And it can
14 be anyone. You can have a contact at your emergency
15 room and if that person is helpful in identifying
16 domestic violence cases, then grab them in your
17 community.

18 Within probation and parole we're
19 addressing -- like I said, we're addressing the need
20 to increase officers' knowledge on domestic violence
21 issues. This is being addressed at new officer
22 training. That was something that 12 years ago, when
23 I started as a probation officer, we didn't talk about
24 domestic violence in staff training. Now I teach a
25 six-hour piece on identifying a batterer and battering

1 behaviors and working with victims. And the fact that
2 -- as we said earlier, I believe Lieutenant Harper
3 said, you know, we don't have a book on how to be a
4 good victim. A lot of times we -- by the time we end
5 up with contact with a domestic violence victim, she
6 is a mess. She has been dealing with abuse. She
7 already has a negative connotation towards the system.
8 She may have drug or alcohol issues. She may come to
9 us as an offender when actually there's victim issues
10 there that we need to deal with.

11 So looking at these and also looking at
12 ways to increase knowledge within our staff and making
13 sure that everyone has basic domestic violence
14 knowledge, victim safety planning.

15 But also we're running into the LGBT
16 community and officers not knowing how to, you know,
17 address things within that community. Immigration and
18 cultural issues with domestic violence, and we've had
19 officers throughout the state come up with all of
20 these issues. So, again, I'm going to reiterate what
21 everyone else has said, training, training, training,
22 and, unfortunately, training is not free.

23 While examining the areas of concern within
24 our department, the task force has also looked at the
25 needs of the state and identified the following areas

1 for improvement.

2 As I indicated, one of the -- one of the
3 things that research indicates that does help working
4 with batterers is the use of batterers' intervention
5 programs. If they are approved batterers'
6 intervention programs, which there's no set criteria
7 other than what the coalition has set forth, which
8 works really well, and St. Louis has set forth its own
9 criteria, but there's no state-wide recognized
10 criteria. But it has to be a program that's actually
11 the correct length of time, addressing the correct
12 issues and holds them accountable. However, we have
13 identified through our task force huge areas of the
14 state that have no batterers' intervention programs,
15 which then means the probation officer is looking at
16 them going don't do it again or go to this anger
17 management program, which has been proven to not be
18 effective when working with batterers. So we tie our
19 hands and aren't able to really do effective
20 interventions in that area.

21 Additionally, we have issues with
22 inconsistencies with prosecution throughout the state
23 where we have some communities that -- and I believe
24 someone eluded to earlier -- there are arrests for
25 peace disturbance or some communities have no domestic

1 violence in their area, even those demographically it
2 looks like they should have some based on other
3 communities. So educating prosecutors and police
4 departments on what we need for effective prosecution
5 and what we need for effective violations is very
6 important.

7 We need -- my officers can write a
8 violation report if I have a police report that says I
9 came to the house, I observed marks, I observed, you
10 know, the phone ripped from the wall or we have
11 actually things we can say, you know what, we have
12 evidence no matter what the victim says at that point.
13 Same thing police officers run into.

14 A lot of cases are also being funneled to
15 other municipal charges which don't have any state
16 intervention, no probation or parole officer assigned
17 or being charged as misdemeanor charges. Domestic
18 violence and violation of ex-parte are some of the
19 only misdemeanor charges that we as state probation
20 and parole still supervise because they are important
21 misdemeanor charges, but we lessen the amount of
22 interventions that we can do when they're a
23 misdemeanor case. We can't use any of the programs
24 that are offered through the Department of
25 Corrections, such as a 120-day additional treatment

1 center, 120-day Shock Program, and we are limited
2 to -- we can't use things like our community release
3 center, where what we need to do more than anything is
4 just get him out of the house to buy her some time,
5 because those are reserved for felony convictions and
6 parolees. It limits what we do.

7 And Can we also have inconsistencies --
8 putting everybody at the table for a state-wide
9 committee, we end up stabbing a case, that would have
10 been charged as this in our community or that would
11 have been charged as this, and there's real
12 inconsistencies based upon where someone is regionally
13 or what resources are available, so just looking,
14 examining that.

15 And, additionally, we had -- all community
16 partnerships would again benefit from increased
17 training, training on what we all do. Because
18 especially, like I said, with probation and parole.
19 We're kind of misunderstood quite often, what
20 probation and parole does, what a law enforcement
21 officer does on the scene, what do victim advocates
22 do, what is the difference between a victim advocate
23 at a shelter, victim advocate at a prosecutor's
24 officer. So just bringing everyone to the table
25 for -- like I said, this came from a coordinated

1 community response training -- bringing everyone to
2 the table for that coordinated community response.
3 Because perpetrators are really good at what they do,
4 and we need to make sure we're really good at what we
5 do as well.

6 Thank you very much and I really appreciate
7 the opportunity to be here today.

8 ATTORNEY GENERAL KOSTER: Tara, thank you
9 for a very good presentation. You had mentioned that
10 you thought anger management was statistically
11 ineffective, if there was one program that you thought
12 through your direct experience in this would say I
13 would want to place a certain defendant in this
14 treatment program or in this course of supervision,
15 can you identify one that you antidotally think works?

16 MS. BOYER: Basically a batterers'
17 intervention program based on the Duluth model, and
18 the Duluth model uses the same criteria that's set
19 forth by the Missouri Coalition as well as the
20 St. Louis batterers' intervention program standards.
21 And what it specifically does is it teaches -- it's
22 anger management -- when you're teaching those kind of
23 things, it's too easy, you know, to share the blame
24 and I need to express my feelings, where the Duluth
25 model goes with power and control. You abuse because

1 it gets you what you want. You abuse because it's all
2 about you at this point in time, and working through
3 the power and control wheel.

4 And the standards are also set that it has
5 to be a certain length of time. In your community we
6 do a 26-week program followed by once a month
7 follow-up, kind of like an after-care program for six
8 months. So they're in a program for a very extended
9 period of time and all of the providers that I know
10 also allow the client to come back at any point in
11 time free of charge.

12 So I would look for a batterers'
13 intervention program following the Duluth model.

14 MS. COBLE: What do you do or has it been
15 discussed with your colleagues for those who are the
16 in the batterers' intervention program and re-offend
17 and, yet, you don't have the option that you would
18 have with other repeat offenders? What is done there?

19 MS. BOYER: And that's one of those things
20 that there's -- it depends on what we kind of get. If
21 we have a new offense and the offense is charged
22 upon -- I don't want to use the word good but if we
23 have a really good police report where we can do it
24 and we can do it -- we have to look at safety concerns
25 primarily and is there anything else that we can do

1 with this client in the community.

2 My biggest issue when we run into a client
3 who re-offends is the fact that mainly all of these
4 charges are misdemeanor charges, so this client is
5 never going to go to the Department of Corrections.
6 This client is probably not going to do anymore than
7 three months to a year in a county jail or we can have
8 him under supervision for two years -- in our area,
9 all of our misdemeanors are two-year probation -- or
10 we can attempt intervention and monitor him or we go
11 do three months in county jail and then have nobody.

12 So it's very difficult. My officers have
13 to staff -- I believe this is through the state at
14 this point in time. We have to staff recommendations
15 for revocation with their supervisor. When they come
16 to me and say this is what I want, and we look at it,
17 and the primary -- our primary service is public
18 safety, and if we believe it's a public safety
19 violation, then we'll recommend revocation. But, like
20 I said, there has to be a charge or there has to be a
21 really good police report to prove it, because
22 otherwise all we're doing is kind of ticking him off
23 half the time. Because a lot of times it's exactly
24 what Carol talked about, you'll get that bond and then
25 they'll be out and still be doing their thing while

1 we're trying to keep them safe.

2 But one thing that's really going well is
3 now that we do charge intervention fees for
4 supervision, we now have the capability of placing
5 someone on electronic monitoring at no cost to the
6 client. So that makes it a lot easier, because then
7 we are able to circumvent that issue and we're like
8 get on a phone, we'll throw you on. And we're now
9 also able to offer electronic monitoring where we can
10 kind of place them on lockdown a little bit more, and
11 in cases where -- because it is more expensive, where
12 necessary, GPS monitoring, and we can put exclusionary
13 zones around things like the victims home, and I have
14 heard some officers that have used that with domestic
15 violence offenders.

16 ATTORNEY GENERAL KOSTER: Representative
17 Kelly.

18 REPRESENTATIVE KELLY: I want to follow up
19 on what both the General and Colleen asked. What
20 we're looking for here is those little gems of
21 testimony which can result in changes in the law.
22 Maybe you don't want to answer this now but and think
23 about it, what specific increases in power could we
24 give to your officers and/or sentences in court that
25 would make it easier for you to pop them back or put

1 them in to begin with?

2 See, while they're often charged with
3 misdemeanors, the underlying charge that often gets
4 them to you is always a felony, and the misdemeanor is
5 enough for you to trigger pulling the plug or asking
6 the court to pull the plug. What tools do you need --
7 can we give you that would make it easier to pull the
8 plug?

9 And second -- this is more of a comment. I
10 don't know that you share your confidence in the
11 batterers' intervention stuff. I think it's like
12 anger management. We talk very seriously about -- but
13 I'd like to know more sometime about why you have that
14 confidence.

15 Thank you.

16 MS. BOYER: Based on -- I'm still mulling
17 over the first question you asked me. Thank you for
18 that.

19 Basically because at this point in time,
20 while there's research to show both ways, the research
21 leans a little more heavily -- and I checked this
22 before I came -- towards the batterers' intervention
23 program being the most effective intervention. It is
24 not a magic pill, and that is the first thing we
25 always tell victims when they call. What they're

1 doing for battered -- I said it is worth about as much
2 as he puts into it. But it is the most effective
3 intervention that we have available at this point in
4 time.

5 And I think it also goes back to quality of
6 programming and that's why it kind of bothered me that
7 we don't have any set standards. We have set
8 standards where it comes to sex offending treatment
9 and when it comes to substance abuse treatment, we
10 have credentialing agencies, but we don't have that
11 when we go to batterers' intervention programs. We
12 basically -- unless you have like St. Louis does where
13 it has an independent agency or you have the coalition
14 that kind of does their audit, we have -- kind of have
15 people hang a shingle out and call it a batterers'
16 intervention program until we find something different
17 and somebody goes wait. We were -- it was one thing
18 when we got it all together, hey, have you heard about
19 this program; yeah, I like that guy, feel free to use
20 him, and we kind of did that as a networking thing.

21 So, no, batterers' intervention programs
22 are by no means the magic fix, but they -- I think
23 they offer -- they offer a better understanding of the
24 process of -- a client who goes through substance
25 abuse treatment may need to go through it a couple

1 times. A client who, you know, goes through sex
2 offender treatment is not being cured, they're
3 learning how to control their behavior so there
4 hopefully aren't any other victims.

5 With regard to the magic -- additional
6 powers, I'd really like to ponder that and maybe get
7 back in a written statement for it and kind of pass it
8 around, pass it up the chain to what else we could
9 use.

10 ATTORNEY GENERAL KOSTER: Senator
11 Wright-Jones.

12 SENATOR WRIGHT-JONES: You mentioned in
13 your comments two things for sure that you found
14 frustrating with the Department of Corrections in
15 terms of resources that you could use to help your
16 program be a little more viable. Would you go through
17 those again?

18 MS. BOYER: I believe what I said was --
19 and let me make sure I'm right -- when we're dealing
20 with misdemeanor cases, that misdemeanor cases are not
21 eligible for all of our programming is that what
22 you're referring to?

23 SENATOR WRIGHT-JONES: Yeah.

24 MS. BOYER: Misdemeanor cases are not
25 eligible for institution placement and institutional

1 treatment center and they're not eligible for Shock
2 Incarceration Program. That's because those are
3 through the Department of Corrections for felony
4 cases, and a misdemeanor case, if it's revoked, will
5 go to county jail.

6 So judges that place clients in Shock time
7 and judges that work with us to kind of do -- work
8 with this client understanding that I've got this two
9 years to kind of get something changed and I want to
10 be able to either try to change his behavior or be
11 able to revoke this client and send him to the
12 Department of Corrections, that's, again, really
13 working with our judges. We have a designated
14 prosecutor in St. Charles County which is very helpful
15 as well.

16 SENATOR WRIGHT-JONES: Is that something
17 you would you need? Would you need this roadblock out
18 of the way or it's because of the way the laws are
19 written there's really nothing we can do about it?

20 MS. BOYER: This is my limited
21 understanding of how the laws are passed and what goes
22 on with all of that.

23 I believe those are reserved for the
24 Department of Corrections for felony cases because
25 they're through the Department of Corrections, and

1 county jails -- maybe being able more to institute
2 something for more Shock jail time that's available
3 for misdemeanor offenses might be helpful. So
4 something where we're able to -- if we need to, if we
5 can't revoke a client, we just need to put him away
6 for a little bit for the victim's safe, that might be
7 a good thing.

8 SENATOR WRIGHT-JONES: Now, my
9 understanding is that you as probation and parole are
10 dealing with inmates that are coming out of the
11 Department of Corrections system; is that correct?

12 MS. BOYER: We deal with both. We're a
13 dual system. We deal with probationers who are placed
14 directly from the court that are placed on probation,
15 and we deal with parolees that are released from the
16 Department of Corrections after serving sentence.

17 ATTORNEY GENERAL KOSTER: Judge Dandurand.
18 DEPUTY ATTORNEY GENERAL DANDURAND: With

19 regard to the things you don't have available to you
20 for misdemeanors, that would be a huge hurdle to climb
21 and it's mostly because those programs are available
22 for felony probationers only and they are chocked full
23 of felony probationers now. I mean, the room for
24 applying that to misdemeanors would require something
25 very, very -- what is available now and the solution

1 is if there's concern, if the concern is that it's
2 such that someone should be in the Department of
3 Corrections for 120 days, it shouldn't be a
4 misdemeanor.

5 ATTORNEY GENERAL KOSTER: Representative
6 Roorda.

7 REPRESENTATIVE ROORDA: Thank you.

8 Tara, I'm going to put you on the spot, and
9 this question is little more broad than just domestic
10 violence, but because of my law enforcement background
11 I still talk to probation officers on the street. And
12 I increasingly hear, not just from POs, but also from
13 cops that are frustrated with the system, that
14 revocations for new violations, associations, failing
15 a urine tests, that those are becoming increasingly
16 rare, it's more and more difficult to violate somebody
17 in our current system.

18 And I want to know, A, is that true from
19 your perspective, and, if so, is it a funding issue,
20 is it our overcrowded prisons, is it a case load
21 problem for probation? Because it's particularly
22 frightening to hear in this context that we have
23 abusive people who are a danger to the folks that they
24 live with, they could be removed, but aren't because
25 we've got a system that makes it difficult then to

1 violate the probation.

2 I'll tell you from my law enforcement
3 background, I very seldom put guys in prison. I put
4 them on prison and you guys put them in prison, so
5 it's scary to me to think guys that are getting
6 multiple chances are not going to jail and that's
7 really the right option.

8 MS. BOYER: Okay. It's a very good
9 question. It's a question I get from a lot of people
10 whenever they find out what I do.

11 First and foremost, as I said, our primary
12 concern is public safety, so if an officer comes to me
13 and they can demonstrate that there's a public safety
14 need, we're recommending revocation. What we are
15 trying to limit as far as -- I've heard this
16 frustration from officers.

17 What we're trying to limit is: If it is a
18 problem that can safely be dealt with in the
19 community, the client is using drugs and hasn't been
20 offered an opportunity for drug treatment, if the
21 client is associating with people and we haven't
22 attempted cognitive restructuring, we haven't
23 attempted something else in the community to address
24 these behaviors, we want to be able to do that as long
25 as they do not pose a risk that we can show.

1 But if a client -- all I can speak to is my
2 offices and offices I've work in and what I've been
3 told through working with other officers. If a client
4 does pose a significant risk, we will recommend
5 revocation. Are there problems with the budgets and
6 are there overcrowding in prisons, definitely. And do
7 we need more room so that's not an issue, definitely.
8 Because, you know, it does cost a lot less to
9 supervise someone on probation than it does to house
10 them in prison. What I tell my officers is we need to
11 reserve prison bed space for clients that need to be
12 in prison. Lots of time offenders --

13 REPRESENTATIVE ROORDA: And public safety,
14 significant risk standards, are incredibly subjective.

15 MS. BOYER: It is. That's why all
16 revocation recommendations have to be staffed. My
17 officers come to my office all the time, and I want to
18 revoke this person. I say, okay, what did they do,
19 what have you done and what are we hoping to
20 accomplish, those are kind of what I ask them. And if
21 they said this person is on for a domestic violence
22 offense, they re-assaulted the victim, he's already in
23 a batterers' intervention program, I say, okay, let's
24 write it up.

25 But if it's to the point that the client is

1 not reporting, well -- and we've had officers in the
2 past who have done that. We've had a lot of people
3 that have gone on a revocation track because they
4 didn't report. Well, we need to attempt some degree
5 of intervention with this client. We need to get the
6 client in. We need to start working with them. We
7 need to try and teach them how to be a productive
8 citizen, and if then it doesn't work, then we need to
9 look at revocation as an option. But when there is
10 violence involved, we really do examine those a lot
11 closer.

12 ATTORNEY GENERAL KOSTER: Jason Lamb.

13 MR. LAMB: First of all, Ms. Boyer, thank
14 you for your dedication and passion, and thank you for
15 your services.

16 As follow up on the discussion of felony
17 versus misdemeanor level, one of things I think anyone
18 who has actively prosecuted or been involved in law
19 enforcement or management of corrections would agree
20 upon -- I hope they would agree upon with respect to
21 domestic violence offenders, is that by and large they
22 are master manipulators, and so much so it's almost
23 second nature in their relationships with their
24 victims that it spills over in their relationships
25 with their probation officers and other members of the

1 criminal justice system. So I'm very encouraged in
2 what you've laid as kind of out the scope of your task
3 and force and committee.

4 And what I was curious about is your
5 thoughts -- you alluded to misdemeanors, obviously,
6 being limited jurisdiction with the board of probation
7 and parole, but I think that the majority of the
8 domestic violence charges disposition in Missouri are
9 probably misdemeanors as opposed to felonies. And
10 obviously the effective and quick response to domestic
11 violence is nothing short of homicide prevention,
12 where today's misdemeanor could be tomorrow's felony
13 murder. So I'd be very interested in your thoughts as
14 Judge Kelly asked to formally -- and you probably
15 haven't got those together -- and the exact missing
16 link in your analysis of how to effectively manage the
17 misdemeanor offenders that are almost garden variety
18 in many situations and should not be treated as such
19 because they are different. And we've done a very
20 good job in Missouri, as you said, saying that DWI
21 offenders, drug offenders are treated by the drug
22 force, and I think domestic violence offenders are
23 also different. I would be very interested in what
24 you have along those lines, how you would expect to do
25 that with misdemeanors.

1 MS. BOYER: That's one thing that the task
2 force is examining. We are looking at -- potentially
3 looking at maybe a specialized -- and this is very
4 much in its infancy. I haven't gotten this off of my
5 desk or anybody else's desk -- at looking at
6 potentially treating domestic violence offenders the
7 way we do treat sex offenders or the way we do have --
8 okay, if you're going to take probation and parole,
9 you're going to then have these additional
10 restrictions that are on you because you're on a
11 domestic violence probation, and that encompasses the
12 misdemeanor cases as well and really kind of holds
13 them to a degree of accountability because there are
14 people's lives involved.

15 ATTORNEY GENERAL KOSTER: Tara, thank you
16 very much. A lot of us have worked in law enforcement
17 and you guys have some of the most challenging and
18 difficult jobs in all of state government. And you're
19 appreciated by Missouri legislature, but your
20 presentation today was very impressive. I want to
21 thank you for services.

22 MS. BOYER: Thank you.

23 ATTORNEY GENERAL KOSTER: Scheduling issue,
24 I want to look at our faithful court reporter.

25 (Thereupon, a short recess was taken.)

1 ATTORNEY GENERAL KOSTER: The next panel is
2 on the topic of orders of protections, their uses and
3 shortcomings. The Missouri Victim Assistance Network
4 is a state-wide coalition of service providers with
5 the goal of improving treatment of crime victims.
6 Peggy Tyson serves as its president and also is the
7 director of Plymouth Clinical Services as a crime
8 victims advocacy center.

9 Dwight Scroggins is a prosecuting attorney,
10 and long time colleague of mine from Buchanan County,
11 and has made the trip from St. Joseph's today to speak
12 as legislative chairperson for the Missouri Victims
13 Assistance Network.

14 To both of you, welcome, and thank you for
15 making the long trip. Peggy, the floor is yours.

16 MS. TYSON: Thank you very much
17 General Koster and distinguished panelists for
18 allowing us this opportunity to give testimony to the
19 panel and task force.

20 As you mentioned, we are a nonprofit
21 organization whose mission is to promote the fair
22 treatment for victims of crime. Our goals are very
23 much right in line with the Domestic Violence Task
24 Force, to create a community of concerned citizens,
25 agencies and organization which shall work to assist

1 in the exchange of information and ideas relevant to
2 the field, encourage the sharing and utilization of
3 resources, and identify and address issues of concerns
4 in the field.

5 We also want to develop and present
6 educational materials for public and professional
7 information. We want to provide cooperation on
8 policies and programs which effect victims and our
9 network members. We want to increase the efficiency
10 of both the members, law enforcement personnel, other
11 members of the criminal justice system and the
12 interested public in responding to victims of crime.

13 And, finally, we want to encourage and
14 support the development and continuation of victim
15 services throughout the state.

16 We've been in existence since 1983. In
17 various capacities we strive to achieve these goals
18 and we're very thankful that we're here.

19 I'm now going turn over the mic to my
20 legislative chairperson, Dwight Scroggins.

21 TESTIMONY

22 BY DWIGHT SCROGGINS:

23 MS. SCROGGINS: Good morning to members of
24 the panel. We do, all of us, appreciate your time and
25 making the effort. General Koster, we appreciate your

1 taking the lead on originating this.
 2 I'm a prosecutor by trade and a victim
 3 crime advocate by heart, and I speak this morning more
 4 in the role of the second than the first being
 5 involved with the Missouri Victims Assistance Network
 6 as former president and a board member for years and
 7 years. So I probably come as close to somewhat a
 8 prosecutor with an advocacy background simply because
 9 I've been around true advocates longer than -- I've
 10 picked some of that up and tried to apply it to our
 11 area.

12 We provided a handout. It's very basic.
 13 We took -- I put in the handout adult orders and child
 14 orders of protection both, because, as it's been
 15 mentioned here previously both are issues or areas
 16 that need to be looked at. I organized them in terms
 17 of availability, usability, remedies available, and
 18 service of orders. And so I'm not going to talk in
 19 terms of all of these issues in that way because we
 20 have an hour presentation and ten minutes to do it, so
 21 I'm going to hit some high points on things we've
 22 talked about we think are relevant and then you'll
 23 have to kind of put those in which categories they
 24 fall into.

25 First I want to talk about some things that

1 we fairly well established at work in the area of
 2 orders of protection and child protection orders. We
 3 know adult protection orders, as a general rule, work.
 4 They're a good thing. They reduce violence when
 5 they're entered, and even in those instances where you
 6 have continued violations, the level of violence is
 7 shown to be decreased by the fact that you have child
 8 protection orders -- or adult protections orders, APOs
 9 and CPOs. They're a good thing.

10 Stalking which doesn't get the attention
 11 perhaps that physical violence gets, we know from
 12 research that stalking is a better predictor of the
 13 level of violence and it's also a better predictor of
 14 a likelihood of continued ongoing violations of the
 15 orders of protection. So stalking as we go through
 16 this process, or as you-all go through this process,
 17 is something that I would suggest to you that we each
 18 get a good hard look at how we deal with stalking and
 19 how we kind of tend to, probably not consciously but
 20 unconsciously, to treat it somewhat less serious than
 21 serious incidents of physical violence. And, in fact,
 22 research-wise it probably has more to offer to us.

23 We know the best predictor of victim
 24 cooperation is something that was touched on multiple
 25 times. The best predictor of victim cooperation or

1 one of the best is how long it takes you to get these
 2 things through the process, from the time of the
 3 occurrence to the time of adjudication. Whether it's
 4 a civil order or whether it's a criminal order, one of
 5 the things that makes it more victim friendly and
 6 victims better able to stay with you through that
 7 process is if you get it done more quickly. So ways
 8 in which to expedite it to the civil protection orders
 9 and ways to expedite it through the criminal process
 10 are really important.

11 Another area, another thing that we noted
 12 is important, too, is that is whether or not -- how
 13 well we are meeting the needs of the victims as we go
 14 through that process. One of the things I would like
 15 to suggest to you is to keep in mind -- to hold the
 16 system accountable. We tend sometimes to get diverted
 17 when we start talking about the unique dynamics in
 18 domestically violent situations, we somehow will tend
 19 to put more emphasis on victims' situations and
 20 victims' responses, and, consequently, perhaps
 21 unintentionally, not hold the system accountable for
 22 what it's intended to do. And when I talk in terms of
 23 unmet needs, I can give you a thousand examples. But
 24 we know that if we want someone in a domestically
 25 violent relationship to leave, we have to provide them

1 some type of economic relief, they have to be able to
 2 survive, they have to be able to pay the rent, get the
 3 money for the kids to go to school. You can look at
 4 all the different remedies there.

5 Take child support. The evidence we have
 6 to have to show their parents in an unmarried
 7 situations. You know, if a prior order establishing
 8 paternity is adequate for a child support order, what
 9 type of wage verification to show, what's a adequate
 10 child support amount. Form 14, which is the formula
 11 that's used to figure child support, in some
 12 jurisdictions the judges will do it, in some
 13 jurisdictions they absolutely refuse, saying it's not
 14 their role, some jurisdictions you get assistance from
 15 the circuit clerk's office and some jurisdictions you
 16 don't have any. So you have a layperson trying to do
 17 something that was designed for lawyers to be able to
 18 do, and so what ends up happening is they don't ask
 19 for child support. In those jurisdictions where those
 20 issues are covered and child support is ordered,
 21 there's no system in place to collect it. So you get
 22 a child support order established today, it goes into
 23 the child support enforcement system, and depending
 24 upon each jurisdiction, it's handled differently, but
 25 it can be anywhere from jurisdictions that have an

1 expedited system by which to get child support
2 collected in domestically violent situations, to those
3 jurisdictions where it becomes one more child support
4 case and get looked at six or eight months down the
5 road. And even in a case that is very simple and the
6 offender is working and very easy to do a wage
7 withholding and force the child support, it just
8 doesn't get done in this particular fashion.

9 So when I say hold the system accountable,
10 let's hold the system accountable for all -- for
11 meeting the needs before we complain about the crime
12 victims themselves who aren't cooperating in the way
13 we would like for them to cooperate. Let's first fix
14 the system. Once we fix the system, I think we'd be
15 amazed how many of our crime victims -- domestic
16 violence crime victims don't need fixing regardless of
17 the dynamics of domestic violence. If we could give
18 them what they need, they can do it on their own with
19 our assistance, especially prosecutors.

20 We also know that orders of protection --
21 violations of orders of protection are very
22 predictable looking at the criminal history of the
23 offender. So a child protection -- I say child --
24 adult/child, they're interchangeable, you understand.
25 But if the offender has prior criminal history, he

1 will violate the order of protection. I mean, we know
2 that. The research bears that out. So why should we
3 take a one-size-fits-all approach when we know -- we
4 can identify up front as opposed to identify after the
5 fact, well, he's done five years worth of violations
6 as in Carol's instance earlier. So there are some
7 tools out there that we need to use to help us
8 acknowledge some of those things.

9 Statistics -- there were a couple questions
10 asked earlier about evaluations. If there is an area
11 in my mind, at least, that is probably the worst
12 handled area in all of the world of domestic violence,
13 it's we don't keep any meaningful statistics. And
14 I'll give you an example. Like, on the child support,
15 there isn't any place that you go to find out how many
16 orders of child support were entered last year, how
17 many were collected, how many were requested, how much
18 were eligible for request and weren't requested and
19 why they weren't requested. You can go through all
20 the remedies in the adult protection orders and go
21 through all the possible remedies of those and you
22 will find that we collect virtually no data on any of
23 it. In those jurisdictions where domestic violence
24 cases go to municipal courts, we collect even less
25 than we do if they go through the state court level.

1 Now, I believe OSKA (sic) is trying to implement some
2 procedures to start collecting some of the information
3 that comes through the adult circuit court, but
4 understand that our consistency in reporting on that
5 is at least as bad, if not worse, than it was on the
6 big thing that dealt with driving while intoxicated
7 offenses. You can take driving while intoxicated and
8 put in violation orders of protection or domestic
9 violence and spread them around and you have repeat,
10 repeat, repeat offenders that are never none from one
11 court to another court because there's no central
12 reporting system. So that's another one of those
13 things we really need look at.

14 ATTORNEY GENERAL KOSTER: What do you think
15 are the ramifications to taking domestic violence
16 arrests and forcing them all into the state court
17 system and completely out of the municipal court
18 system? I want to bookmark this idea as well.

19 MR. SCROGGINS: I think you will have a lot
20 of the same discussions we have had on the DWI issue.
21 The numbers -- in some jurisdictions, that's
22 completely doable, and in metropolitan areas that deal
23 with numbers -- you know, I'm from St. Joseph,
24 Buchanan County, so we're kind of somewhere -- we like
25 to think metropolitan, but we're probably closer to

1 rural. So in our jurisdiction, all domestic violence
2 complaints have gone to state courts for ten years.
3 In the metropolitan areas, their numbers are
4 overwhelming. Most of you-all are from around this
5 area. I just don't know -- Bob would have been the
6 person to ask about that because Bob can give the more
7 practical approach.

8 The one thing I would throw out there,
9 though, is we can distinguish between domestic
10 violence offenders. We can distinguish between them
11 up front. Like, we -- I hate to keep drawing this
12 analogy, we know if we had a drunk driver that's .13
13 and above, we know that's a repeat drunk driver,
14 whether they have five convictions or not. There are
15 -- those are the same criteria by which violators,
16 domestic violators can be recognized, and criminal
17 history is one of these, whether or not there's a
18 prior incident. You could come up with your own
19 litany of ones. And so certain ones of those -- like
20 what the DWI law tried to do is to get offenders that
21 we know research-wise fit into a certain category sent
22 to state court. Second offenders, high BA, same
23 criteria. Those are things that are out there and can
24 be identified and be used in dealing with domestic
25 violence offenders, and channeling the ones that have

1 all of the earmarks of something that's going to be
2 more significant channeling those to state court and a
3 lot of the municipal courts handle some of the others
4 that the larger metropolitan areas just can't handle
5 in state court because of the sheer numbers. But
6 that's a small-town boy talking about big-town things.
7 I just don't know the pragmatic effect of that around
8 here.

9 I mentioned this earlier, but I want to
10 re-emphasize it, we hear a lot of complaints and a lot
11 of frustration voiced by prosecutors and judges about
12 this, file the order of protection, dismiss the order
13 of protection, file the order of protection, or I file
14 a charge, I want to dismiss the charge, all of those
15 types of things. Again, one of the best predictors of
16 victim cooperation is how long you take it to get
17 through your system, but it's the one question I would
18 challenge you to ask anybody in this field, whether
19 they're advocates, whether their prosecutors, whether
20 they're law enforcement, ask them what their time
21 frames are in their jurisdictions. If it's judges ask
22 them on adult protection orders, ask them the length
23 of time it takes to get through their system. None of
24 them will be able to answer that question for you.

25 So, again, my thing is simply before we

1 start complaining about the victims and how
2 frustrating they are and they file this and -- before
3 we do that, let's, again, keep our emphasis on the
4 system itself.

5 MS. COBLE: I say Amen.

6 MR. SCROGGINS: And we can mandate the
7 tracking of those time frames legislatively by order,
8 but the Supreme Court could probably do something with
9 that tomorrow. We mandate keeping time on how long it
10 takes to get a non-descript civil case through the
11 court system but we don't have any time standards for
12 these. Those are things that are very fixable.

13 ATTORNEY GENERAL KOSTER: Representative
14 Kelly.

15 REPRESENTATIVE KELLY: Thank you.

16 Dwight, I did them all for seven years.
17 There's time standards. I could tell you how my
18 domestic docket was going at any given time and I
19 think everybody that does it can tell you.

20 MR. SCROGGINS: Understand you were dealing
21 with the very small number of those that you're
22 dealing with at the state level.

23 REPRESENTATIVE KELLY: Not in Boone. I did
24 100% of them in Boone. I had two dozen a week.

25 MR. SCROGGINS: I think in those mid-level

1 counties like ours, I think that's true, Boone, Clay,
2 Cass, all those, but when you get to the larger areas
3 they can't, because all of these cases that are spread
4 out to the municipalities, and when you get to the
5 lower, to the more rural counties, they don't make any
6 effort.

7 OSKA has just now recently started tracking
8 some of these numbers. And my point is not -- you
9 know, my guess would be, you're interested, you're
10 here, you were probably more attentive to that. I can
11 guarantee you there are judges in other jurisdictions
12 who aren't and weren't -- and the point simply being
13 that's something we need to look at. You need to
14 track those numbers because that will help us to
15 assist victims to be able to cooperate. Because if it
16 takes a long time, they don't have the wherewithal to
17 survive over that period of time and continue to
18 cooperate with it. And a lot of times it is the fact
19 that if it takes six or eight months to get to the
20 case, by that point in time, if they have disengaged
21 from the offender, why in the world would they want to
22 come back and participate with us and get reengaged
23 with an offender that is finally leaving them alone
24 for this first time in a significant period of time.

25 Four or five more real quick. If I'm

1 speaking too quickly, I'm sorry. Four or five more
2 things I want to throw out. The enforcement remedies,
3 the things that the orders of protection allow for
4 that are enforced differently in every single
5 jurisdiction by every single judge, I don't have the
6 answers to these things. But it would be simple
7 enough when a court hears an order of protection, for
8 example, to -- to make a determination as to whether
9 or not this is a case that would legally be eligible
10 for a request of child support and then whether or not
11 the request for child support was made, and if the
12 request for child support was made and was not
13 granted, make a specific finding of fact as to why it
14 was not granted to give us some basis to go forward to
15 legitimately -- real evaluation mechanisms to look at
16 what it is that we might be able to better do, you
17 know. If it's how paternity was established, you
18 know, if the person -- if the guy signing on the birth
19 certificate, is that adequate for a child support
20 issue, address those issues and make them more
21 uniform.

22 There's no recourse for victims, crime
23 victims in general in this state. We have a wonderful
24 constitutional amendment to Missouri constitution that
25 allows for crime victims. We have some wonderful

1 enabling legislation that the legislature passed years
2 ago. There's absolutely zero recourse in this state
3 if you violate crime victims' rights. There's no
4 recourse for it. So if it's a prosecutor, if it's a
5 judge, whoever it might be, there's no recourse, and
6 that is something that probably takes a little more
7 than passing a law or making some procedural type of
8 remedy, but is it something that ultimately in this
9 state we have to get back to, and it probably would
10 have to be constitutional level. We have to get back
11 to allowing some type of recourse in instances where
12 victim's rights are violated. We have it for
13 defendants. We have to figure a way to do that for
14 crime victims.

15 I put in the handout -- I think I put in
16 there -- chilling effect on reporting orders of
17 domestic violence. There was earlier discussion and
18 it's much more involved than we can get into here, but
19 when should we make crime victims, domestic violence
20 victims, do something and when should we not. One of
21 the big considerations on that is if a crime victim --
22 domestic violence victim involves themselves in the
23 criminal justice system and it's a system that once
24 involved they cannot disengage, they can be made to
25 come to court, they can be made to do all of these

1 other types of things, you have to consider what the
2 ramification of that might possibly be when that
3 victim is re-abused again. Whether or not they will
4 -- the chilling effect that it will have on them not
5 engaging themselves again in a system in which they
6 virtually have little or no say. When you talk about
7 no-drop policies, things of that nature, that's
8 just -- a major consideration, and there are a lot of
9 other considerations that have chilling effect on the
10 use of orders of protection.

11 How often -- in our jurisdiction, and I
12 assume in all jurisdictions, that police are called to
13 the house, a woman is being abused, they arrest the
14 guy, they run the woman from municipal court with a
15 warrant outstanding and she gets arrested, too.
16 What's the effect of that next time around? It's not
17 going to happen.

18 Non-English speaking has become a big
19 issue. It's become a big issue in my jurisdiction. I
20 know there are some resources that are available to
21 address some of that within the city. When you get to
22 smaller jurisdictions, there are no resources, and
23 it's ever increasing.

24 And the issue of illegals -- and those are
25 just three off the top of my head. But the issue of

1 illegals, if you are illegal, you're not going to call
2 law enforcement and not get involved in the process
3 because you're illegal. So what happens is they
4 become fair game, a target for more abuse than someone
5 else in similar circumstance might have to survive.

6 And the last thing, and this has been
7 mentioned before, but the lack of
8 coordination/cooperation between where the civil
9 courts fit into this process and where the criminal
10 courts fit into this process. If there's a civil
11 court, family court that has entered a visitation
12 order and you're ordered to communicate with each
13 other over issues of visitation and that just becomes
14 a tool that is used by the abuser to be able to
15 communicate with this former abuse victim, you get
16 involved in that whole process. The level of danger
17 increases, you perhaps have a violation of an order of
18 protection so you have a criminal charge filed now
19 against that former -- or that abuser, and that one of
20 the conditions is no contact. So you now have a
21 victim in a place where they have a criminal court
22 order that says no contact and you have a civil court
23 order that says you must communicate, and you have a
24 layperson stuck in the middle trying to make the
25 decision or determination as to which court order they

1 should violate.

2 And then in some instances, and hopefully
3 this would not be among the enlightened judiciary, but
4 in some instances they get punished. They were abided
5 by this, well, they denied visitation or they denied
6 what the previous civil court -- so I don't know the
7 answer to that. I just know it's a huge problem out
8 in the real world, and some type of -- some type of
9 coordination and cooperation needs to be
10 established -- needs to be mandated, honestly.
11 Because if you don't mandate it, it will happen in
12 jurisdictions that are already good on this stuff and
13 won't happen in jurisdictions that aren't. So mandate
14 away.

15 ATTORNEY GENERAL KOSTER: Dwight, I want to
16 thank you for a great presentation and thinking
17 through a lot of very complicated issues.

18 Questions? Senator Bray.

19 Senator Bray: Not so much a question, but
20 maybe stating the obvious. But what Prosecutor
21 Scroggins is talking about in terms of what came to
22 the forefront of my mind is a challenge as you go
23 through this process and have your hearings, has come
24 up -- to quickly get in some sort of a format things
25 that can be done easily to help, things that can done

<p style="text-align: right;">Page 150</p> <p>1 by prosecutors. Things that can happen that are not 2 as complex as going through the legislative process. 3 ATTORNEY GENERAL KOSTER: I agree and 4 that's our intent. Frankly, it's one of the reasons 5 why I find bringing the court reporter to these types 6 of events is well worth the money because the ideas 7 just spill out in these things. 8 SENATOR BRAY: And whoever is responsible 9 for fixing the system, maybe that's just the system 10 itself getting it in order and not necessarily the 11 legislators, so I think that's going to be your 12 challenge for an immediate effect. 13 MR. SCROGGINS: And I think those within 14 the system bear the primary responsibility that, 15 generally speaking, top to bottom the laws in the 16 state of Missouri in large thanks to Colleen, not 17 solely but almost solely, but they are really 18 progressive. The legislature here has done an awful 19 lot of good things. 20 I'm old and so I've been around and saw it 21 before and now I see it as it is and it's a remarkable 22 improvements. So the legislature, I think, has always 23 been very supportive in these areas. And, obviously, 24 by your presence, I know you'll continue to be 25 supportive.</p>	<p style="text-align: right;">Page 152</p> <p>1 civil order then has an opportunity to get in the 2 criminal order at that same time. 3 So I suppose right now, in my mind, that's 4 the best thing you can do is hope that the judges in 5 any particular jurisdiction are coordinating those 6 things, but we know the reality is in many 7 jurisdiction some are too big, others, for whatever 8 reason, that's not being done. 9 ATTORNEY GENERAL KOSTER: Representative 10 Schupp. 11 REPRESENTATIVE SCHUPP: Thank you. 12 I want to say I appreciate your report. 13 I've learned so much listening to you, and I think 14 what surprised me most hearing from you was that we 15 are able to distinguish among domestic violence 16 offenders up front and we are able to do that, and, 17 yet, we don't have in place a consistent reporting, 18 the ability to report consistently or we don't utilize 19 the ability. I believe we have to put information out 20 through the mules or some other system in order that 21 everybody has access to that same information. So 22 it's good to learn what you've told us here today, 23 it's important, and I think it's going to helpful 24 going forward. I think this task force will be 25 charged, in my mind, with utilizing those very tools</p>
<p style="text-align: right;">Page 151</p> <p>1 ATTORNEY GENERAL KOSTER: 2 Representative Jones. 3 REPRESENTATIVE JONES: Quick question: You 4 mentioned that there are cases where there's a civil 5 order, maybe for child support or visitation, and a 6 criminal order to cease contact. Which ones takes 7 precedence, and have you seen cases where there are 8 two orders and what do you do when that circumstance 9 presents itself? 10 MR. SCROGGINS: There are many cases where 11 that presents itself. There is no answer as to which 12 takes precedence. It is absolutely strictly the 13 judges involved and how they deal with it. In our 14 jurisdiction, it's kind of an ongoing concern. The 15 civil court judges are concerned that the criminal 16 court judges are ordering things that effect their 17 jurisdiction. 18 The best one -- and I think this 19 Joe Dandurand had said earlier -- we have a local rule 20 in our jurisdiction that says if there's an 21 existing -- if there's a an existing civil order on 22 the case that involves the same parties, that the 23 ex-parte order may go to a different judge, the full 24 hearing then goes to that judge so that the judge with 25 the civil order that issued the -- usually the earlier</p>	<p style="text-align: right;">Page 153</p> <p>1 to get us communicating and talking with each other. 2 I think your report to us, what it did for 3 me was just sort of brought home this horrific 4 experience that Carol Cromer has lived through, that I 5 think many other women are living through, that maybe 6 could have been stopped or prevented so early on. And 7 for these years, five years, I believe, she spent 8 living this horrific ordeal, and the communication and 9 things and tools we know about that do exist could 10 have been put into place. 11 I'm curious where you think we went wrong? 12 Why wasn't there intervention made when there were all 13 these reports? She was a victim willing to step 14 forward and say help me. Why is it that you think she 15 didn't get the help that she needed earlier on? 16 MR. SCROGGINS: You mean the lady, Carol -- 17 I'm sorry I don't remember your last name. I just 18 remember Carol. I tell you, honestly, that's 19 impossible without knowing the details of what was 20 going on. 21 You know, one of the things that obviously 22 doesn't sound like was done that should have or could 23 have been done was any type of risk assessment. 24 Again, using some of these criteria, we know if 25 weapons are involved, we know of threats of death,</p>

1 threats of suicide. Colleen could probably give you
2 -- could probably give you a list of 50 things; I
3 could give you a list of 15, but we know we can
4 objectively look at those issues and make a
5 determination as to the level of risk assessment.

6 We also know that the length of time in the
7 relationship, you know, the longer the time of the
8 relationship, the more likelihood of an increased
9 level of violence; therefore, the greater -- the
10 greater the increase and the danger to the victim when
11 the victim is trying to leave the relationship. Most
12 victims of domestic violence are dissolved, most
13 relationships are dissolved with very little violence
14 after the initial violence because they get out of the
15 relationship early on. The ones that become more
16 increasingly violent are the ones that are longer-term
17 relationships. So you can look at -- those are types
18 of objective criteria by which you could make a
19 determination, this is a unique situation. And
20 certainly, you know, two cars in the same family
21 burning by electrical -- that's inconceivable. I
22 mean, all of us sat here and thought, you know, that's
23 just stupid, nobody makes that connection -- or makes
24 that connection and then feels unable to do something
25 about it. So I don't know enough about the

1 particulars of hers to comment on it intelligently.

2 REPRESENTATIVE SCHUPP: I do appreciate all
3 the information you brought with you.

4 ATTORNEY GENERAL KOSTER: Colleen.

5 MS. COBLE: I'm very grateful for so many
6 of the different things you said today, for your long
7 work -- not that you're old or anything. But just as
8 a measure of lack of evaluation or doing any
9 assessment of data, which usually sounds very dry to
10 people, but really can illuminate some key elements of
11 what we can be doing. The Director of Highway Patrol
12 Statistical Analysis Center has been working with us
13 for the last year, and the only resource brought to
14 bear on that incredible treasure trove of data of
15 criminal arrests, demographics, the histories, all
16 identified by -- for domestic violence is a grad
17 student. He gets one grad student a semester, and it
18 is 20-plus years of data that eliminates so many
19 different things, risk for recidivism, case
20 disposition by county. Some don't necessarily want
21 all that information by county. But we have
22 information in our state that we're not taking
23 advantage of that could really enhance what everybody
24 is directed to do in their jobs throughout the system.
25 So I'm with you on the data collection and analysis.

1 MR. SCROGGINS: One other thing -- I jotted
2 more notes down here that I brought than when I came.
3 Somebody mentioned the juvenile offenders early on.
4 We don't have any system by which juvenile offenders
5 are known then when they become adult offenders. So I
6 don't know all of the intricacies of how that would
7 work, but law enforcement is able to get access to --
8 under certain circumstances, to things that obviously
9 the public shouldn't have and juvenile records are one
10 of those things. But I have no way -- when I have an
11 18-year-old domestic violence offender, I have no way
12 of knowing that person started at 14, and was
13 adjudicated two or three times in juvenile court and
14 just now turned -- that's one of the predictors of the
15 level of violence and the frequency of violence. It's
16 one of those things to which I have now have access.

17 The last thing on child protection orders,
18 it's not even a ground on which relief can be granted
19 on a child protection for the child to be in the home
20 where domestic violence has been perpetuated. We know
21 lots of things about the problems that children in
22 domestically violent homes have, but the CPO, the
23 child protection order, doesn't even have that as
24 being a ground upon which relief can be granted under
25 a child protection order. Clearly something -- just

1 one of those oversight things that could fairly easily
2 be fixed.

3 ATTORNEY GENERAL KOSTER: Thank you very
4 much for an excellent presentation Dwight and for
5 making a drive across the state.

6 MR. SCROGGINS: Fly.

7 ATTORNEY GENERAL KOSTER: Okay. Our last
8 presenter before the public comment period is Judge
9 Michael Burton, a man who is highly respected in this
10 community, and a lot of people who care about these
11 issues are aware of Judge Burton's work.

12 He is the administrative judge of the
13 family court of St. Louis County. He was appointed as
14 an associate circuit judge in 1999 and circuit judge
15 in the year 2004. He currently chairs the Domestic
16 and Family Violence Council in St. Louis -- St. Louis
17 County. He's an adjunct professor both at Washington
18 University School of Law since 1997 and Saint Louis
19 University School of Law since 1992.

20 I ask your forgiveness for running late on
21 a prominent jurist, but thank you for remaining with
22 us, and the floor is yours.

23 JUDGE BURTON: Thank you. Good afternoon.
24 I can't wait to tell my wife that the attorney general
25 called me a prominent jurist.

1 I want to thank you Mr. Attorney General,
2 this panel, and for giving me the six hours to talk
3 about the problems that we have in some of our
4 statutes.

5 I want to talk to you about a situation
6 that happened to me sometime last year. I was very
7 fortunate to have the opportunity to speak with other
8 judges about the issue of domestic violence at several
9 national conferences. And we broke up into small
10 groups of about 20 and the judges all went around the
11 circle talking about all the different services and
12 statutes that address domestic violence, and it sort of
13 went like this: The New York and California judges
14 were really bragging about everything they had and all
15 the money they had for funding, and it kind of got
16 around, and I was the last one in the circle. And I
17 said we don't have that opportunity or we don't have
18 that service, and it's kind of where we got to that
19 point where we'd just kind of go around the circle and
20 it would end with, okay, Missouri, what do you got?
21 And I would just look at them in somewhat dismay -- it
22 was sort of comical to a certain degree -- but at the
23 end, it really wasn't.

24 I can so really remember one of the things
25 we were discussing were firearms and how we address

1 firearms in the domestic violence situations and
2 orders of protection, and we were going around the
3 circle and I was the only one that could really say
4 that we don't do anything, as judges, as it relates to
5 firearms with domestic violence matters. And I looked
6 at the guy next to me and he said you're from Texas.
7 And it really was something that was tough to hear.

8 I want to start by saying I really believe
9 that orders of protection work in many instances. I
10 think the numbers are pretty high. The statistics
11 show, for the most part, people do follow orders of
12 protection, for the most part people do follow the
13 law, but there is that percentage that doesn't follow
14 the law. And I think in great part, we judges are
15 partly to blame, and in great part, because we don't
16 have teeth to our orders of protection. The bottom
17 line is people know it in the communities. You know
18 what, if I violate this order of protection, nothing
19 is going to happen. And we, as a community, need to
20 do something a lot better than what we're doing right
21 now.

22 I sure know that if, in fact, judges get
23 more involved, as we have been starting in St. Louis
24 County, to monitor these orders of protection and not
25 just sign off on an order and say see you later,

1 respondent, you've got an order that says for a year
2 you're supposed to stay away from a petitioner. We
3 know if we monitor these orders of protection and we
4 bring people back for compliance dockets, as we are
5 statutorily allowed, people are going to be very
6 concerned about whether or not there's going to be
7 consequences if they don't follow the orders of
8 protection.

9 And we as judges -- even though we
10 definitely have busy dockets and there's no question
11 that we have a lot of business here in St. Louis
12 County -- we can do it. We can provide -- even if you
13 mandate it, we can provide regular compliance dockets.
14 We could provide regular compliance dockets not only
15 in matters involving criminal court where -- let's
16 face it, right now because of funding, probation
17 officers are very limited, as we heard earlier on. We
18 know that in this county, in St. Louis County, we
19 judges could insure someone is participating in a
20 batterers' intervention program. And whether or not
21 batterers' intervention programs are effective, the
22 bottom line isn't whether someone is going to get out
23 of a batterers' intervention program treated or
24 whether they're going to come out of the program and
25 be much less likely to re-offend, what we know is in

1 that year period of time where the order of protection
2 is there, they're going to be much more likely to
3 participate in the batterers' intervention program and
4 give us the opportunity to monitor the fact they're
5 there, they're in this program, they're hearing good
6 things, maybe something is going to sink in. We know
7 that if, in fact, they go through that year where it
8 is clearly the most emotional, we know that the
9 chances are more likely they're going to be in full
10 compliance with their order of protection. That's
11 really what the bottom line is.

12 I'd like to really address to you what my
13 biggest frustration is amongst other judges that deal
14 with all the time, and that relates to our statute
15 455.050. Section 455.050 is the statute that spells
16 out exactly what it is we judges can and cannot do,
17 and it makes it very clear. It does not say you,
18 Judge, can do these 15 things and anything else you
19 think is necessary to protect the victim or anything
20 else you need to make sure that justice is served.
21 What it says is: Here are the 15 things you can do,
22 no ifs, ands or buts. There's no catch-all. There's
23 22 states in the country that allow a judge to do
24 whatever is necessary to protect the victim. There
25 are statutes in other states that are somewhat

1 limited, but we don't have the ability for a judge to
2 do what is necessary to protect these petitioners.

3 And it's not like we're not trusted,
4 because if you look at some of the other statutes, for
5 example, the conditions of probation, conditions of
6 probation -- I'll read to you what says: Conditions
7 of probation say that the conditions of probation
8 shall be such as the court in its discretion deems
9 reasonably necessary to ensure that the defendant will
10 not again violate the law. Further, 559.021 says the
11 court may order such conditions as the court believes
12 will serve to compensate the victim and any dependent
13 of the victim or society. And it talks about such
14 conditions that can be imposed, but it says shall not
15 be limited to, and then it gives you a laundry list of
16 the conditions.

17 When we look at our dissolution statutes,
18 our family statutes, domestic law, when we talk about
19 custody, relocation or visitation, it makes it very
20 clear that we judges have that ability to protect the
21 children and protect whoever else is involved. It
22 says, for example, for the relocation statutes, the
23 Court may order any other remedial action the court
24 considers necessary to facilitate the legitimate needs
25 of the parties and the interest of the child.

1 We don't have that in our statutes, and, in
2 fact, what we're stuck with is something that
3 basically says this is it, you can't do anything else.
4 What is it we can't order? I'll tell you right now
5 there's some huge holes here.

6 Let's talk about firearms. If, in fact, we
7 find that a respondent has committed a horrible act of
8 abuse, we can't do anything about the guy's firearms,
9 even if we hear from the petitioner there's firearms
10 in the house. Now, of course, the police can take
11 certain measures, prosecutors' offices can take
12 certain measures, but we as judges cannot. Even know
13 though if I issue an order of protection that says you
14 have to stay away from this person, the bottom line is
15 the Federal statutes are triggered and that there's
16 Federal statutes that make it very clear that any
17 felon or any respondent in a current order of
18 protection can't possess guns, it's a Federal statute.
19 I can't do anything about it. Even though I can order
20 someone who has a concealed-carry endorsement to hand
21 in their license, I still can't do anything about the
22 guns. It's unbelievable.

23 And, in fact, to show you how horrible it
24 -- and this was something that was so dramatic when I
25 was at this conference -- there's only three states in

1 this country right now that don't allow a judge to do
2 anything about guns after one issues an order of
3 protection, and right now my understanding is Georgia
4 and South Carolina are seriously looking at these
5 statutes right now for some change.

6 What else can't we do? Right now I can't
7 tell someone that you have to stay a particular
8 distance from the petitioner. What I can tell them --
9 and keep in mind I'm reading usually to someone with
10 an eighth grade education -- I say to them this: As
11 far as contact is concerned, respondent shall not use,
12 attempt to use or threaten to use physical force
13 against petitioner that would reasonably be expected
14 to cause bodily injury and shall not stalk, abuse,
15 threaten to abuse, molest or disturb the peace of the
16 petitioner wherever the petitioner may be. I
17 challenge you to tell me what that means. I can tell
18 you every time I get this quizzical look sometimes
19 from people when they're in my courtroom saying, okay,
20 yeah, judge I'll follow that one. And they walk out,
21 and the question isn't so much if they're going to
22 violate the order, it's whether they're going to do it
23 this afternoon or this evening. I can't say to
24 someone something in English, to say don't go within
25 100 yards from this petitioner, don't go to this

1 person's place of employment, don't go to this
2 person's school, stay away from the children of the
3 petitioner, stay away from the pets. I can't do any
4 of that because I'm limited by the statute that really
5 strings us very tightly to what is in that listing.

6 Another concern I've got -- and this one is
7 somewhat controversial, and that gets into issues of
8 dismissal. Right now, according to the law, a
9 petitioner can come back to court even after a full
10 order of protection has been issued to -- move to
11 dismiss her order. I say move to dismiss but it's
12 really dismissed because what will happen is the
13 petitioner can come to the adult abuse office in our
14 courtroom and leave with a dismissal and that's the
15 end of the situation.

16 Now I completely understand and value the
17 autonomy that victim's have, and there's no question
18 in my mind that when we start talking about victim's,
19 if anyone is best in figuring out and gagging the
20 danger they have by being in this relationship, if
21 anyone is in danger of realizing if this order of
22 protection is still going on, he's going to continue,
23 he's going to get worse. I understand that
24 completely.

25 But what I'm saying that I would like to be

1 able to do, as judges, is to let that victim, when
 2 they come back to court, at least speak to an advocate
 3 before the dismissal takes place. At least have an
 4 advocate who can participate in making sure this
 5 decision is their decision and not the decision of the
 6 respondent. I can tell you I've been to lunch after a
 7 long orders of protection docket and I see someone
 8 come in to dismiss their case. Well, what we don't
 9 see in court is then the woman goes outside and guess
 10 who's picking them up, and it's not a friendly
 11 discussion going on. It's not like love was back in
 12 this situation. What's going on around her is
 13 coercion, and for us to be able to gauge whether or
 14 not that coercion is there is very significant.

15 I also think the value -- this is why I
 16 disagree with any complaint about batterers'
 17 intervention programs. The value of batterers'
 18 intervention program is it eliminates the victim
 19 oftentimes from the equation. And if I can say to a
 20 victim, you know what, this is not something you
 21 necessarily have to get into. You don't have to be in
 22 a position where you have to be afraid of this guy.

23 This is between you and me, respondent, and
 24 the bottom line is if, in fact, you violate this order
 25 of protection where I'm telling you to do a batterers'

1 intervention program -- because I don't know about any
 2 of the other conditions of this order itself. I don't
 3 know whether or not he's contacting the victim. I
 4 don't know whether or not he's having communication
 5 with the victim. But what I do know is whether he's
 6 complying with the batterers' intervention program,
 7 and failure to participate in that batterers'
 8 intervention program is something I should be able to
 9 make sure happened.

10 And the problem is that if a petitioner
 11 comes in and dismisses the case, I can't do that.
 12 What I can do is have advocates speak with the victims
 13 and say, you know what, we can modify this. I
 14 understand how horrible your situation is because he's
 15 out of the house or because he can't have the contact
 16 with the kids the way he wants. You can modify that,
 17 but I'm going to keep this one term that says you're
 18 going to participate in the batterers' intervention
 19 program, and that's something that could make a huge
 20 difference.

21 Same argument goes with extensions of order
 22 of protections. Right now, according to statutes, the
 23 only one that can extend an order of protection is the
 24 petitioner. We judges that might see that someone
 25 hasn't, in fact, fully complied with a batterer

1 intervention program, should be able to say, buddy,
 2 you've got ten more weeks to participate in this
 3 program. This order of protection is extended. If I
 4 don't do that, if we don't have the ability to extend
 5 -- and the last person we want to turn to to count on
 6 coming back to court is the person who has so many
 7 horrible troubles and contacts with this guy. I don't
 8 want to feel that the petitioner, who oftentimes has
 9 made herself scarce for understandable reasons, I
 10 don't want to have to depend on her to come back to
 11 court to make sure the batterers' intervention
 12 programs are, in fact, finished.

13 One last thing I'd like to talk to you
 14 about is this, and that relates to the ages of
 15 respondents in order for someone to get an order of
 16 protection. According to our statutes, for an adult
 17 to abuse -- and we're talking about teen dating, and I
 18 -- right now I run the juvenile court in St. Louis
 19 County. There are problems galore, as you all can
 20 imagine, and it gets worse when you're starting to
 21 talk about issues -- anything involving the Internet,
 22 e-mail, text message.

23 Right now for two kids that are 16 years
 24 old, that 16 year old can't get an order of protection
 25 according to our statute. An adult abuse order of

1 protection can only be against 17 year olds and older.

2 For a child order of protection, when a
 3 parent comes forward, the respondent, if they're
 4 younger than 18, you cannot get an order of protection
 5 against that individual. Because of our statutes --
 6 specifically because of your limited access that we
 7 provide to petitioners, the national study done by
 8 Break the Cycle, which is the main teen domestic
 9 violence group in the country, has given 15 states an
 10 F. A report was given on every state. Fifteen states
 11 were given an F, and guess where Missouri proudly
 12 fell, right in, right in the F category. Only three
 13 states got As. These people are hard graders, but we
 14 got an F, and it was primarily because of the limited
 15 access that we give petitioners.

16 Anyway, sorry I went on a by rampage there.
 17 I can't urge you enough just as far as, you know,
 18 protecting and doing what I know everyone is concerned
 19 about doing, and that's protecting petitioners in our
 20 state from repeated offenses, from, you know, the
 21 horrible horrors of domestic violence. To give judges
 22 the ability to address what we see is necessary with
 23 each case we need to be able to tailor our orders to
 24 the specific facts instead of just turning to some
 25 laws that just don't go far enough.

<p style="text-align: right;">Page 170</p> <p>1 ATTORNEY GENERAL KOSTER: Judge, I've had 2 the pleasure and, indeed, the honor of listening to 3 you speak on this topic a number of times, and you are 4 as articulate as anyone who I hear speak on this 5 issue, and so as a fellow government worker, you're 6 not just someone out there doing a great job, you're 7 someone out there who I really think is trying to make 8 the world a better place. And a lot of people know 9 your name and a lot more who don't know your name owe 10 you a lot of thanks.</p> <p>11 Questions for Judge Burton.</p> <p>12 MS. COBLE: I know, Judge, from our 13 other conversations that you have an even more 14 extensive list of corrections to the orders of 15 protection and Chapter 455 that would make your job 16 easier and some of them are glitches. Would you be 17 willing to share that with them?</p> <p>18 JUDGE BURTON: Hopefully, it's in my 19 handout but I think -- I think it's there.</p> <p>20 MS. COBLE: My embarrassment for not 21 reading it. Thank you, Judge, for handing in that 22 information for the record.</p> <p>23 ATTORNEY GENERAL KOSTER: Senator Bray. 24 Senator Bray: One quick detail on the 25 weapons, the firearms issue and the Federal law, do</p>	<p style="text-align: right;">Page 172</p> <p>1 in fact, they do, they're facing some serious 2 consequences.</p> <p>3 Senator Bray: That would be very helpful 4 because, as you know, I'm sure, we've had trouble in 5 legislature, but if it's already being done, it might 6 be easier having it under state control than the Feds 7 doing it.</p> <p>8 JUDGE BURTON: I would think so. 9 ATTORNEY GENERAL KOSTER: Representative. 10 REPRESENTATIVE MCNEIL: Thank you very much 11 for you presentation.</p> <p>12 In looking through your notes, I see that 13 you are talking about the creation of a fatality 14 review board and that being problematic. Would you 15 want to speak to that for just a minute?</p> <p>16 JUDGE BURTON: Well, I do know there's been 17 some legislation that have authorized groups to get a 18 commission in the state to allow for something similar 19 to what I was talking about there. But many states 20 have state-mandated fatality review boards by which 21 different groups from the community regularly get 22 together and study a couple of cases each month, let's 23 say, and try to figure out just exactly what happened, 24 why did this particular individual die because of 25 domestic violence, where were the failures of</p>
<p style="text-align: right;">Page 171</p> <p>1 the Feds ever weigh in on a state like Missouri that 2 doesn't have that?</p> <p>3 JUDGE BURTON: Well, for the longest time 4 -- and I can only speak of the U.S. Attorney's office 5 and our side of the state. For the longest time the 6 talk was if there was a finding of abuse, in other 7 words, if there was a full hearing and a judge made a 8 finding that abuse occurred, then they would proceed 9 on those cases. If it was a consensual order of 10 protection and there was no finding of abuse but the 11 respondent agreed to stay away, it would be less 12 likely they would proceed.</p> <p>13 I can tell you right now that there's no 14 distinction, the law doesn't make a distinction. I 15 can also tell you this, that right now we've got a 16 very active assistant US attorney who is on a domestic 17 violence council, who is very encouraging right now as 18 to steps they are taking to make sure they understand 19 which cases are the ones that are most serious and 20 they're going to be following up on. Usually those 21 cases in which we are ordering batterers' intervention 22 programs are the ones that are really sending up the 23 red flags that they're going to be following and 24 keeping track of and making sure that notices are sent 25 to these individuals that they cannot possess, and if,</p>	<p style="text-align: right;">Page 173</p> <p>1 communication, where were the gaping holes. And 2 usually what they try to do is try to set up a 3 timeline to look at everything that they know of after 4 a pretty significant amount of investigation and 5 talking to all the family members and friends of the 6 victims and whoever is available from the respondent 7 side to figure out exactly what happened. And then 8 the group gets to try to figure out what the causes 9 were, and then to take it to the next steps to try and 10 see whether or not legislation is needed or whether or 11 not there just needs to be better ways of monitoring 12 the situation.</p> <p>13 REPRESENTATIVE MCNEIL: What different 14 organizations are you referring to when you talk about 15 the different organizations?</p> <p>16 JUDGE BURTON: A lot. It certainly would 17 start with police departments, prosecutors' offices, 18 the courts, probation office -- almost anyone that was 19 here today that has experience in addressing most of 20 these issues. Of course, victim advocate groups, 21 groups, victim -- witness -- victim -- from the 22 prosecutors' offices, the different offices that are 23 involved that would have the wherewithal to really 24 know what should have been done and what, in fact, 25 wasn't.</p>

<p style="text-align: right;">Page 174</p> <p>1 REPRESENTATIVE MCNEIL: So kind of like -- 2 maybe something put together by the governor or 3 whatever, somebody to look at it on an ongoing basis 4 these kind of cases? 5 JUDGE BURTON: Correct. 6 REPRESENTATIVE MCNEIL: Okay. Thank you. 7 ATTORNEY GENERAL KOSTER: Judge, thank you 8 very much. 9 That brings the formal portion of this 10 panel discussion today in St. Louis to a close. The 11 discussion leaves me today no doubt at all that this 12 is going to be a productive endeavor as we go across 13 the state. I promise it will be very substantive. 14 There's no doubt that the record has dozens and dozens 15 of good ideas and ideas that will be explored as we go 16 through. 17 I'm going to have to excuse myself at this 18 point to go to a different meeting, and I've asked 19 Judge Dandurand, who is the Deputy Attorney General, 20 to take in public comment. Of course, the public 21 comment will be taken into the record, and I'll review 22 it myself when we get back to Jefferson City. 23 But I want to thank the panelists, thank 24 you to the Judge and other people who came -- from all 25 over the state to testify this morning, and I think it</p>	<p style="text-align: right;">Page 176</p> <p>1 but getting the order itself is a challenge many 2 times. I will tell you as I listened to Ms. Cromer 3 speak today, if I went into court with her trying to 4 get an order of protection, I can think about 85% of 5 the judges I would be in front of and would hear the 6 story about the cars and say we're not here about 7 property damage, tell me what he did to you. That's 8 something they will say under the laws we have. If 9 they heard what had happened to her children, they 10 would say to you that's not about, you tell your 11 children to come in and get an order of protection. 12 So that is something that as I look at 13 legislative changes -- you know, judicial training is 14 a wonderful thing and we've been working on it, but 15 it's not always kicking in, and maybe we need to 16 mandate a few more things and not wait for the 17 discretion and training to kick in. 18 Two concrete things I can think about as 19 far as our laws goes. The order of protection 20 process, we have a provision in Chapter 455 which says 21 if there's a pending order of child custody, then the 22 order of protection won't address that. When you talk 23 about why people are dismissing orders of protections, 24 it's because their children are at risk. It would be 25 really nice if that pending order provision was</p>
<p style="text-align: right;">Page 175</p> <p>1 was a very productive endeavor and it gives me lot of 2 optimism as we go forward to Columbia. Thank you. 3 ATTORNEY GENERAL DANDURAND: We've asked 4 that the public comment portion, when you come up to 5 speak and address the panel, be limited to three 6 minutes, if you could. We're going to try to keep 7 track of that as we are well over an hour behind. At 8 this point, we've only had two folks that have signed 9 up, and if that's the case that there's only two of 10 you that want to do that, you have a little more. 11 The first whose name is on the list is 12 Katie Weslyn. 13 MS. WESLYN: Good afternoon I guess it is 14 now, instead of morning. 15 I'm the managing attorney of that's an 16 agency here in town, Legal Advocates For Abused Woman. 17 I've been there since -- for 1966, and in that time 18 have overseen about 3,000 orders of protection. I 19 think I'm probably the only attorney in the state of 20 Missouri whose entire practice is devoted to that. So 21 since I only have a few minutes here, you can expect 22 my treatise in your e-mail boxes on some things. 23 But just a couple of things I'd like to 24 touch on. You know, this morning we've heard a lot 25 about the enforcement of orders and how that works,</p>	<p style="text-align: right;">Page 177</p> <p>1 changed to say at least that there was actually an 2 order already entered. Because what will happen is 3 I'll go to the courtroom and the abuser will come in 4 and say I'm filing with my lawyer my petition for 5 divorce today, and at that point, the judge will say, 6 okay, everything is off the table, now there's 7 something pending. There's no court date coming, this 8 could be months down the road, but because that little 9 piece of the statute says pending order, they're going 10 to take the easy way and not address any of these 11 issues. 12 Well, you wonder why they're going to 13 dismiss, well, that might be one of the reasons. They 14 won't get any child support, they won't get any 15 economic relief and their children aren't going to 16 have a custody order. If they send them to school and 17 dad goes to pick them up, there's no way to stop him. 18 So please take a look at that as you look at. 19 Please also look at the part of the statute 20 that talks about mutual orders of protections. We 21 already changed the law a while back that says if one 22 person files for an order of protection, the other 23 person can't just come to that hearing and say I want 24 one to. They used to do that and they used to get it. 25 Well, now the law says if they both file a petition</p>

1 for orders of protections -- they both have to have
 2 the petition on file, but if they do both have a
 3 petition on file, a judge can issue an order against
 4 both people. I would like a little more pressure put
 5 on our judges to do some fact finding and decide who
 6 is actually causing the problem because this is
 7 another easy way out, they say let's keep everybody
 8 away from each other. When you treat a victim of
 9 domestic violence in a courtroom as though they are not
 10 different than an abuser, then you're not showing that
 11 this state has a policy of protecting them, and why
 12 would they come to court and ask for help if that's
 13 the way they are going to be treated. Those are two
 14 concrete things.

15 I would also suggest -- because
 16 Judge Burton already talked about what's going on
 17 around the country. I do training with the American
 18 Bar Association Commission on Domestic Violence and
 19 they have done a very good job of making statutory
 20 summaries. So if you do the abanet.org website and
 21 type in against domestic violence, you can look at all
 22 their charts and they will show you state-by-state
 23 comparisons so you can see where Missouri is in
 24 comparison to some of those things. Because a lot of
 25 the things Missouri says that can't do are being done

1 in plenty of other places.

2 So I will wrap it up right now because I
 3 know we're short on time. Thank you for the chance to
 4 speak to you. I hope you'll take the time to listen
 5 to some other civil practitioners because actually
 6 getting the order of protection is a key part of this
 7 as well and we have a lot of tell you.

8 DEPUTY ATTORNEY GENERAL DANDURAND: Sue.

9 MS. DERSCH: My name is Sue Dersch, and I
 10 work with the Aware Program here at Barnes-Jewish
 11 Hospital. So welcome to the campus, and I'm the only
 12 one who didn't have to drive to be here today.

13 I actually hadn't planned on making a
 14 comment this morning but then as I was listening this
 15 morning, I really thought that something from our
 16 experience here was important to share, and what
 17 brought me to want to talk about this was just hearing
 18 the conversation and testimony about misdemeanors and
 19 felonies.

20 So Barnes-Jewish Hospital is a Level 1
 21 trauma center, and it is one of only two Level 1
 22 trauma centers in the greater St. Louis area, the only
 23 one in the City of St. Louis. The Aware Program is
 24 Barnes-Jewish Hospital's domestic violence program,
 25 and we've been here since 1994. And for pretty much

1 all of those years, probably about 95% and upwards of
 2 the patients who come into our emergency room with an
 3 injury from domestic violence, the injuries that they
 4 have will meet the criteria for that crime to be
 5 charged as a misdemeanor and not a felony.

6 So what I've seen over these 15 years is
 7 that almost a one-to-one correlation is if the
 8 injuries do not require the patient to be admitted or
 9 to have a surgical treatment to them or were not
 10 caused by a knife or another weapon, then that will
 11 almost one-to-one result in the charge -- the assault
 12 that was committed against them to cause those
 13 injuries being caused as a misdemeanor. There's some
 14 exceptions, though. Someone who has a laceration on
 15 their hand caused by knife, that gets stitched up,
 16 they get sent home, but because it was caused by a
 17 knife, it can be charged as by a felony.

18 So on any given day of the week here,
 19 there's a domestic violence victim that comes into our
 20 emergency room with injuries. And like I said, 95%
 21 and upward of those crimes are all going to be charged as
 22 a misdemeanor, because it feels like to me the
 23 misdemeanor category is really, really, really, really
 24 big. And so what it takes to bump something up to a
 25 felony, it takes a lot, and maybe it should. I'm not

1 here to say it shouldn't. I'm just here to kind of
 2 say that most of the injuries that domestic violence
 3 victims get, you know, end up being misdemeanor
 4 crimes.

5 And it's really difficult sometimes for the
 6 victim to accept that when if this assault was
 7 committed by somebody who climbed in her window to
 8 assault her, that climbing in the window gets the
 9 felony of breaking and entering. But the assault that
 10 didn't leave a broken bone or didn't involve a weapon
 11 ends up as a misdemeanor. So it does feel sometimes
 12 like the scale maybe needs some adjustment. I'm not
 13 here to necessarily provide any thoughts about how to
 14 adjust it but to kind of put that out there.

15 DEPUTY ATTORNEY GENERAL DANDURAND: Sue,
 16 while you're here, my perception is -- I could almost
 17 do it off the top of my head -- the definitions for an
 18 assault to be a felony -- but because we're making a
 19 record, if you happen to have it, you know the
 20 potential law the --- subtracted part of the body -- I
 21 don't know if Jason has anything.

22 I bet Catherine.

23 MR. LAMB: I'm going to ask
 24 Catherine Vannier. I bet she can rattle it off the
 25 top of her head.

1 MS. VANNIER: Protracted or prolonged loss
2 of a substantial bodily function. That's not all of
3 the language but that's basically.

4 MR. LAMB: And, of course, I'd like to make
5 a comment on that, too. I'm very encouraged with
6 medical partners, I want to make a point here. It's
7 important for law enforcement and prosecutors to
8 partner with their medical personnel because you can
9 make a felony on a strangulation case, but sometimes
10 the investigation has to be there and proof of
11 strangulation through endoscopic and other medical
12 examination to be very helpful and to make that all
13 important, almost fatal incident, become a felony
14 charge.

15 DEPUTY ATTORNEY GENERAL DANDURAND: Nobody
16 else signed up. Is there anybody up at the last
17 minute who would like to address the body at the last
18 moment?

19 MS. QUARRELS: I didn't know I had this
20 opportunity so I'm really going to take just a second.
21 My name is Olivia Quarrels. I'm a psychotherapist for
22 children of domestic abuse. I love what the judge had
23 to say because we don't hear that enough, that women,
24 the victims, are held accountable at every single
25 level, starting with why didn't you leave, why did you

1 stay, did you not think of your children, and it just
2 drives home where responsibility is being placed,
3 which I think is totally inappropriate.

4 The other thing that's deep in on my heart
5 having dealt with the children, children by nature of
6 being young, by nature of being discounted, are
7 overlooked. We're looking at repeat behavioral
8 situations going on. So many of the adults that I
9 have, the adult perpetrators that I have counseled,
10 that's exactly where their situation started. We've
11 got to look at the children. If we want to make a
12 change, yes, address all this with the woman, address
13 all this with the adults involved, but the children
14 keep getting overlooked.

15 The lady that told her story, we see this
16 so many times, and if it's not a shooting, a stabbing,
17 a strangulation, if it's not physical, it's almost
18 discounted because he didn't really do anything to
19 you. We see the psychological effects with the women
20 with extended family members, who quite often have to
21 remove themselves, and I am so glad for Ms. Cromer
22 having family that stuck by her. We don't see that a
23 lot, and I can't condemn it because of
24 self-preservation. Not everyone is able to quit their
25 jobs, move from their homes, replace burned cars and

1 all of that, but repeatedly we're seeing more and more
2 violence towards women. Women who are putting
3 themselves in the place of a buffer between the
4 perpetrator and the children. We have women who keep
5 five and six year old in diapers so the abuser is
6 still seeing them as helpless and innocent and the
7 abuse goes more towards the female.

8 What does this do to children? We're
9 having to teach them basic life skills that they
10 should know at one, two and three years old, and some
11 of them are already in schools and not knowing what to
12 do. So the schools are labeling them. We're having
13 to deal with that. The mothers are being labeled as
14 poor mothers because how could you have your children
15 not prepared for life.

16 We've got to stop judging. We've got to
17 step up, whatever is it that we've been doing, it is
18 not working. I am so glad to see this task force.

19 It is not working. For it to be at 600
20 abuse cases this year, compared to 1,100 the total
21 number of last year, I don't know where the other
22 numbers are because every place that I'm connected
23 with, it's more numbers. So I'm not sure what's going
24 on with the number count. We know that could not be
25 completely accurate. I implore you that the

1 information that came in from today, the information
2 from your other two sites, I implore you, make some
3 changes, take the children into consideration. By all
4 means, that's your future, and we're steadily losing
5 them. We're losing them terribly.

6 Thank you so much.

7 DEPUTY ATTORNEY GENERAL DANDURAND: On
8 behalf of the Attorney General, I want to express my
9 appreciation to the legislation, Colleen and Jason and
10 especially all of you who came and expressed your
11 interest. We appreciate your thanks.

12 We're adjourned.
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CERTIFICATE OF REPORTER

I, KAREN LYNN, MO CCR, IL CSR, Notary
Public within and for the State of Illinois, do hereby
certify that the meeting aforementioned was held on
the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal.

Notary Public within and for
The State of Illinois
CCR #893(G), CSR #084-00284